

UP Ordinance a blow to industrial dispute resolution, say experts

Last Updated at May 9, 2020 02:23 IST

The draft ordinance stated that “all factories and establishments engaged in manufacturing process shall be exempted from the operation of all labour laws for a period of three years” subject to fulfillment of certain conditions.

The proposed Ordinance of the Uttar Pradesh (UP) government to exempt firms from almost all labour laws seeks to dismantle the industrial dispute mechanism, even as it keeps safety-related norms and minimum wage provisions intact.

A copy of the draft Ordinance titled The Uttar Pradesh Temporary Exemption from Certain Labour Laws Ordinance, 2020, which has been sent for the approval of the governor, was reviewed by Business Standard on Friday.

The Ordinance has been sent for ratification to the governor, following which it will be sent to the President (through the Centre), as some changes are meant to be done to Central laws.

The draft Ordinance stated that “all factories and establishments engaged in manufacturing process shall be exempt from the operation of all labour laws for a period of three years”, subject to fulfilment of certain conditions. This means all manufacturing and plantation units, construction, services sector, and shops/establishments “dealing” with manufacturing process will be able to enjoy the benefits of the exemption.

The Ordinance does not state the specific laws that will be exempt, but UP Principal Secretary (Labour) Suresh Chandra said most of the 38 labour laws in the state will cease to exist for the next three years. “Notwithstanding anything contained in this Ordinance, the previous operations of various labour laws shall not be affected,” it said.

Though the Ordinance has not specified it, businesses will have to pay towards the Employees’ Provident Fund Organisation and Employees State Insurance Corporation schemes, as the laws governing them are controlled and administered by the Centre, according to experts. Firms won’t be liable to pay gratuity benefits.

The proposed Ordinance shows the existing Industrial Disputes Act of 1947, which spells out the mechanism for resolving industrial disputes, will be rendered invalid. This means employers will get a free hand to retrench or lay off workers, to the extent that they will not be obligated to pay retrenchment compensation. There will be no mechanism for workers to raise a dispute or for authorities to reconcile issues between workers and employers.

Trade unions have criticised the move, even as industry bodies cheered similar steps taken by certain BJP-ruled states.

According to the proposed Ordinance, employers will have to enter the name and details of all employed workers electronically on an attendance register of the government under the Factories Act, 1948. "No worker shall be paid less than the minimum wage as prescribed by the UP government," it added.



WHO?

All factories and establishments engaged in manufacturing process shall be exempt from the operation of all but three labour laws for a period of three years

WHAT?

- No welfare provisions under the Factories Act or the Building and Other Construction Workers Act will apply
- Safety provisions under the Factories Act to be kept intact
- No means to settle dispute as the Industrial Disputes Act will become redundant
- No right to form unions or go on a strike
- Employees Provident fund and Employees' State Insurance benefits to continue; the gratuity scheme will not apply
- Workers to be paid salary directly in bank accounts and to be registered through an online portal
- Minimum wages to be paid

WHEN?

The proposed Ordinance is pending approval of the state governor and will go to the president through the central government for sanction before becoming a law

Wages of workers have to be deposited on time in their bank accounts, not through cash.

"The provision of Factories Act, 1948 and Building and Other Construction Workers (BoCW) Act, 1996 relating to safety and security of workers, shall remain applicable," the proposed Ordinance states.

K R Shyam Sundar, professor and labour law economist, XLRI Jamshedpur, said the welfare provisions in the Factories Act, for instance the necessary provisions of cleanliness, disposal of waste, lighting, drinking water, urinals, canteens, rest rooms, crèches, and wages during the leave period, will cease to exist. He said construction firms won't be required to contribute towards the BoCW cess fund.

"The Ordinance is ill-drafted, ambiguous, and hurriedly prepared. It will lead to extensive litigations," Sundar added. The UP government has proposed to put a cap of 11 hours on the maximum number of working hours per day. The provisions of various labour laws relating to employment of children and women shall remain applicable, along with those related to the Bonded Labour System (Abolition) Act, 1976, it added.

Workers will continue to be compensated for accidents on the job. Action against employers will continue to be taken in case of breaches of these conditions, according to provisions of the existing "relevant" Acts.