

**Course Name: Labour Welfare and Industrial Relations**

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**Week:9**

**Lecture: 38**

**Lec 38: Factories Act 1948: definitions, authorities**

Hello, students. Welcome back to the course on labor welfare and industrial relations. Today, we move to the ninth module where we look into specifically the Factories Act 1948.

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So over the previous few modules, we have tried to understand why the situation in factories were one of the primary reasons why the working conditions, as well as the problems emanating from the working conditions, had created a lot of. Conscious efforts to actually bring back sanity, maybe to the working conditions or maybe cleanliness to the working condition or maybe some conducive environment for the worker to work in the particular working condition. So on that basis, we'll dwell more deeper into. Factories Act 1948, why we need to have or what was the reason why Factories Act came in and what essentially it addresses. So we'll go most of them in section by section, clause by clause.

Again, the understanding is to have a bigger picture on why you need to have a clear cut specific Factories Act when most of the population is looking into job on a day to day basis in factories. So when we look into Factories Act specifically, let's go into the background. So there were a little bit of interactions and deliberations that have happened in terms of occupational health, safety, etc. So when the Factories Act 1948 came up, it subsumed all the existing acts or legislations related to occupational safety, health, and to

a certain extent, the occupational conditions and hazards, etc., So when you look specifically into factories act, it is more comprehensive than the previous act and focuses mainly on different facets, including but not limited to health.

Now, this was the primary aspect of the primary condition why factories have come into picture. Let's look into a scenario where the health of the worker is compromised and whatever be the profit maximization that's happening, whatever be the revenue generation that's happening. It is immaterial because you cannot have a sustainable company or a sustainable organization at the cost of the health of a worker. So health happened to be the primary, in fact, the fundamental block of the factories. Then we also looked into safety.

When factories came into picture, the safety was one of the biggest concern. The area where The people were working, the workers were dwelling or maybe the place where they were spending a considerable amount of hours of their daily routine in those particular scenarios, in those particular situations, those were clearly looked into. So the safety aspect was critical there. the factories act also subsumed the welfare of the workers so when you look into the chronological aspect let's understand this from on a clear basis that initially if it was health then it was safety it was also a step ahead when it went with the welfare of the workers so it was not only with respect to the health and safety it tried to bring in certain elements of welfare it also tried to bring in certain aspects whereby the workers got motivated extrinsically or if not intrinsically they got motivated and they were ready to work in the working conditions every now and then it also had provisions of working hours it is impossible for an human being like a human being not being machines cannot work on or keep on working infinitely so that was a key criteria when it came to the factories act What were the stipulated working hours? How it should be divided? What were the conditions or what were the welfare of the people associated with that? Factories Act also looked into the minimum age to work.

Now, in the previous module and the module before that, we had looked into how child labor was a sort of a stigma or sort of a problem, which actually brought in a lot of young workforce, which actually should have been studying at that point of their age. They were unnecessarily or they were inhumanly brought into the workforce. So this Factories Act

subsumed a certain aspect of minimum age to work also. So all these provisions, including the provisions of leave with pay. Now, there are certain situations.

Let's look into a particular conditions of maternity. Let's look into a particular condition. Let's say there is a critical medical ailment. All these aspects, all these critical medical situations warrant that there could be a possibility that the person or the employer, the worker, need to take leave and that too he has only this particular salary as the only remuneration for his entire life or for his entire existence and maybe for his family, he may be the only sole breadwinner, then there is a possibility that leave with pay also has to be addressed and rightly so, Factories Act 1948 states, also looked into the leave with pay. So these were some of the elements to quickly summarize health, safety, welfare of the workers, working hours, minimum age to work, and finally, leave with pay. When you actually look into Factories Act, the historical background, Factories Act was a central legislation which came into existence in 1881. The Act, this is something which came as the beginning of the Factories Act which we see in our present form.

So the Act was amended in different years 1891, 1911, 1922, 34, 48, 76 and finally 1987. So it was extensively amended in the year 1948 which makes it remarkably close figure to why we address the act itself with that particular year so the whole day-to-day activities taken place within the factory was governed by factories act 1948 so anything and everything that is happening within the factory let's understand this let's take 10 seconds of time and critically understand this anything and everything that is happening within the premises of the factory, maybe it is with respect to the work, maybe it is with respect to the working condition, maybe it is with respect to the, as we saw in the previous slide, the age of the worker, maybe it is with respect to how people are actually treating or how people are actually being treated in the work, in the factory. All these things were critically understood or critically taken seriously in Factories Act 1948. So when you look into the Act, please note that it extends the whole of India, including Jammu and Kashmir. So there was no exception made when it came to existence. When you look into Factories Act, we dwell into or we go into the critical nuances of this Act. So let's understand from there, from the beginning, what do you mean by factory?

Because every single act will have certain elements and they will also come out with operational definitions. So the beauty of these operational definitions is that anything beyond this might not be included in the act, but anything and everything that comes inside is. comes within the umbrella, within the ambit of this particular operational definition will be essentially addressed by the act. So on this basis, it is very particular or very critical to note that we have to understand what a factory is. So let's understand what factory is.

According to the Section 2 of the Factories Act, factory means any premises, any premises, including the precincts thereof, where on 10 or more workers are working. This could be one condition where working on any day of the preceding 12 months is yet another condition. A manufacturing process. repeat a manufacturing process is being carried on so that a manufacturing process is being carried on so that also will emerge as one of the significant factor and with the aid of power or is ordinarily so carried on so this is where you know the critical aspect comes in so there might be a factory which is textile related there might be a factory which is related to let's say die manufacturing there might be a factory related to making some automotive parts there might be a factory related to making some color combinations there might be a factory related to let's say some plastic synthesis or something like that so there could be n number of possibilities but in the act we are very specifically defining what a factory is there is an alternate definition also let's look into that where on 20 or more workers are working so please note

Initially, though, we were letting as one option of 10 or more workers. We'll see where the difference is coming. We're working on any day of the preceding 12 months. Again, quite similar to the previous one. Manufacturing process is being carried out without the aid of power or is ordinarily so carried on.

So this too could easily subsume or understand or let's look into these two as the critical factors in establishing manufacturing. What a factory is. So if you want to know what a factory is, according to the Factories Act, this is the operational definition. But please note, please note, it does not include mines as subject to the Mines Act 1952 or even a railway running shed. So there are some critical definitions coming your way.

Please understand if there are no operational definitions, it is very difficult to make a law. So this has to be one of the primary concerns and one of the primary activities of any particular legal legislation that is being initiated. So Rightly Factories Act also defines specifically what do you mean by factory. I hope the definition is quite clear. Now let's look into what is manufacturing process.

So I'm setting a tone for the act here. making you understand the basics so let's build from the basics what do you mean by manufacturing process now interestingly manufacturing process means any process for stay with me let's understand this deeply making altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal. So please note, if I want to have a clear understanding, if some of your friends are coming to you, They are asking you, okay, I want to start a manufacturing process.

I want to look into a manufacturing setup, which would be coming under the Factories Act. You can clearly look into the definition or the explanation part and say that either this is part of a manufacturing process, this is a manufacturing process, or you can also conclusively say now that this is not a manufacturing process. So all those things that are listed in the Act are Almost exhaustively that is given here. So let's look into that from another angle.

Let's say pumping oil, water, sewage or any other substance generating, transforming or transmitting power, composing types for printing. printing by letterpress, lithography, photography or other similar processes or even to a certain extent book binding. Constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels or finally preserving or storing any article in cold storage. So if you ask me, any preservation in cold storage, this is part of a manufacturing process. Yes, it is.

Common sense would have said otherwise. But according to Act of Factories Act 1948, it is categorically coming under manufacturing process. Let's look into something like as simple as pumping oil. Let's look into something similar on the grounds of construction reconstruction. All these are defined specifically as manufacturing process.

So I hope there is certain level of clarity in what is factory, now what is manufacturing process. Now let's look into the fundamental question, who is a worker? Who is a worker? Section 2 of the Act clearly defines a worker means a person employed directly or by through any agency. including a contractor.

So if you have gone through the agency theory or maybe in contract law, if you've gone through the principal agent concept, it would be worth recollecting here that a worker means a person employed directly or by or through any agency, including a contractor. So with or without the knowledge of the principal employee, it could be. Whether for remuneration or not in any manufacturing process. So please note there are some critical functional aspects like whether for remuneration or not. In cleaning any part of the machinery.

Premises used for a manufacturing process. in any other kind of work incidental to or connected with the manufacturing process or the subject of the manufacturing process. So all these aspects are part of worker. So please note, it does not include any member of the armed forces of the union. So there is some level of distinction that is made for the armed forces and they don't qualify themselves as a worker as part of this factory set.

So that is the critical aspect. Otherwise, it gives a certain exhaustive understanding of what or who a worker is. Now, let's look into occupier. When you understood who a worker is, Section 2, Subclause (n) also talks about occupier.

An occupier of a factory means the person who has... ultimate control over the affairs of the factory. Who is an occupier? A person who is having ultimate control over the affairs of the factory. So when you look into the occupier closely, in case of a firm or other association of individuals,

Please note association of individuals. Any one of the individual partners or members thereof shall be deemed to the occupier. So it could be any of the individual partners or members thereof. shall be deemed to be the occupier. So this is one critical distinction coming your way where it could be an association of individual, it could be any one single individual, it could be one individual partner or members thereof.

And in the case of a company, that was the first case was in case of a firm, in case of a company, any one of the directors or shall be deemed to be the occupier. So this is the classic distinguishing factor when it comes to a firm and company. And finally, in the case of a factory owned or controlled by the central government or any state government for that matter, or any local authority for that matter, the person or persons appointed to manage the the affairs of the factory shall be deemed to be the occupier.

So there is a clear distinction when it happens or when you look into the firm's case, it could be anybody. It could be individual, association of individual, individual partners or other members thereof. When you come towards company, you'll have directors any one of the directors could be the occupier and when you are looking into factory especially owned by central government or state government or any local authority please note the person or persons appointed to manage the affairs of the factory shall be deemed to the with the occupier now when you look into the act generally the objectives are laid down based on Five factors specifically.

If you look into the act, it has clear distinction between the welfare as one of the factor to the health. Three, the safety. And four, the working hours. And finally, minimum wage. So all these essential aspects were initially discussed in the first slide, if you recollect, where I thought of pitching in with the objectives in a very trivial way.

Now we go in detail. When it comes to the objective of this act, you should always remember the welfare takes the prime position. There should be restrooms, drinking facilities, first aid and other amenities. So it also requires employers to offer sufficient sanitary facilities and a clean drinkable supply in the industry or workplace. So you will understand the level of detail or the level of concern the act has given to the employee welfare.

it looks into closely the working conditions, the situation like drinking water situation, drinking water condition or how, you know, effectively they can work with the conditions that are given in terms of the work. So welfare takes one of the prime position when it comes to objective. Let's look into the second aspect, which is health. So as per As per

the Factory Act 1948, workers must get the ideal environment, safety, precautions, light, air and other basic facilities that affect the health.

So you are working in a particular environment. Your concern should be an ideal environment, an environment which is safe. An environment which is having sufficient precautions from, you know, hazards. An environment which is having sufficient lighting conditions. You do not have to be choked, feel choked inside a particular environment.

There should be sufficient air circulation. You need to work even if it is not a very precision manufacturing process. You need to have the basic lighting conditions. So all these aspects have to be satisfied and this is why the health is also given a prime position when it comes to the act and its objectives. It also now looks into the safety.

In the safety part, safety measures must be taken care of as factories are surrounded by the types of machinery. Hazardous equipment. So there must be proper fencing and no manholes to protect workers. You must have observed or you must have seen movies or maybe some documentaries where people were stuck up in manholes and there were imminent dangers or death that have happened. So all these situations were taken care of.

A detailed study was done in to incorporate the safety element whereby hazardous equipment and machinery were to be properly fenced and there should be proper care given. And especially no manholes would be there so that workers are protected. Now, when we look into the objectives, we cannot ignore the working hours also or during the working hours or in consideration with the working hours. There should be fixed time for working hours every day. We should not exceed the limit of 48 hours in a week.

So let's say if we take the complimentary one day off six days a week, then it comes to eight hours per day. But that said, The general guideline is to not exceed the limit of 48 hours in a week. Even if it's a shift oriented system, even if there are different shifts, multiple shifts that are being maintained in the factory, it is critical that the worker is not tortured. That means the worker is not given beyond 48 hours and if at all there are requirements it should be properly incentivized which I will be communicating later.



Now it also looks into the objectives of the Act also looks into the minimum wage. The Factories Act 1948 requires workers to be paid a minimum wage by establishing a predetermined pay rate. So employers must pay Employees, I repeat, must pay their employees at least the statutory minimum wage. So these were some of the aspects that were included as part of the objectives of the act.

And you can see how well it has documented all the critical aspects, maybe from welfare to the safety to the health, minimum wage, every single factor, every single element that could come as a point of concern. but included as a salient feature in the act. And this is the beauty of the factories act. Now let's look into the authorities who are actually given the power to look into the actual working or actual establishment or actual conduct of the act, or whether if there are any compliance issues, if there are any deviations, if there are any anomalies, who are the people in charge?

The first one is the, definitely the government, respective state governments and union territories. The second aspect or the second important authority in this field will be the office of chief inspector of factories. So there's a critical chief inspector office of factories, which is set up to monitor how well these conditions, be it welfare, be it health, be it safety, be it minimum wage, working conditions, etc., all these aspects how well these are actually looked into or taken care of and finally there are also specific posts like the labor department of the state government there are labor commissioners who are heading it there are certain particular individuals and agencies who look after monitor whether all these are happening all factory activities are happening according to the law But then if it's not happening or if it is, there are violations, there are non-compliances, administrative measures are also there, mandates the formation of a child labor committee.

The administrative measures also has a provision for a conciliation officer designated by the government and also labor officers designated by the government. So there are certain administrative measures. If there are, as I already mentioned, if there are some anomalies, there are some non-compliances which may happen, which has been observed over the past few decades. There are certain checks and balances the government would actually put in or bring in. And these are some of the administrative measures, including but not

limited to mandates that formation of a child labor committee, a conciliation officer and even labor officer.

So this was my attempt to introduce you to a much important, a very critical act. Over the previous modules, as I started or I explained in the beginning itself, they have looked into the working conditions, working conditions specifically in factory. So all these conditions in pathetic conditions, if I can use the word in factory conditions. led to a change of focus, led to a detailed deliberation on the issue. And people have come out with certain act.

Initially, there were some inputs with respect to occupational safety. There is no doubt. There is no denying the fact. But when workers or when Factories Act came up with all its amendments and finally took a clear picture, clear shape in 1948, it subsumed everything, occupational safety, health, etc. As you would have seen, it not only looks into the health,

It looks into the working condition. It looks into the environment in which they are. It looks into the welfare of the people. It looks into the minimum wage they should get. So Workers or Factories Act 1948 happens to be one of the most comprehensive act which has given the worker the right momentum, ability and assurance to work in a healthy, safe environment and well-guarded environment.

That's all from today's class. See you in the next class. Till then take care. Bye bye.

Namaste.