

Business Law for Managers
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Module-5: Factories Act

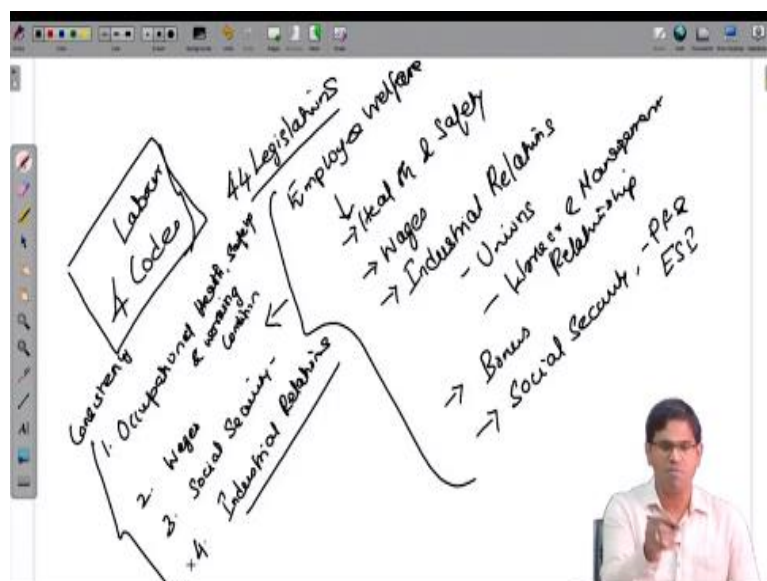
Lecture – 21
Background, Concept and Salient Features of Factories Act

Welcome to lecture 21 of module 5. So far, the first 4 modules, Mr. Kaushik Mukherjee would have handled about various aspects of company law, contract and prohibition of competitions and all that he would have discussed. From module 5 to module 8, we are going to discuss about a labour legislation primarily for any potential managers or managers in a company.

It is very essential that we focus on 2 aspects. One is about focusing on company act and contract and how to manage my contractors, other legal aspects. And then the second half is primarily important to focus on the labour legislation. What are the provisions which are governing the organisation with respect to managing the employee with respect to health and safety, with respect to wages, bonus, payment of gratuity, so many aspects, so the model 5 to 8 will be primarily covering on the labour legislations of this particular course.

Let us get into the lecture. So today, I am going to discuss about the first legislation which is a factory act.

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Before I get into this particular lecture, I just wanted to discuss about the development which is happening. As a country, we have been having lot of legislations since independence. Now, what is actually Government of India is doing is they started to consolidate the labour legislations. If you look at the earlier law of, so when we talk about employee welfare, I mean, I talk about its cover's health and safety, health and safety and it covers wages, legislations with respect to wages.

And it is respect to industrial relations, when we talk about industrial relations, industrial dispute, then we also talk about unions, worker and management relationship, then legislations with respect to bonus. Then, respect to social security, with respect to PF and ESI and all. And there are so many legislations which were existing in an independent legislation. Now, the recent development which has actually happened was, all these legislations were consolidated into 4 codes, labour codes.

These labour codes are actually already consented and President of India was already given his approval and a few legislation codes are implemented, but it is still in the phase of reviewing and it is not actively implemented, but what if you look at what is labour code is covering, all these aspects of these legislations are consolidated and brought into the 4 labour courts. The reason being is that so that it becomes easier for consistency perspective, yes, maybe some definitions would vary differently in some legislations.

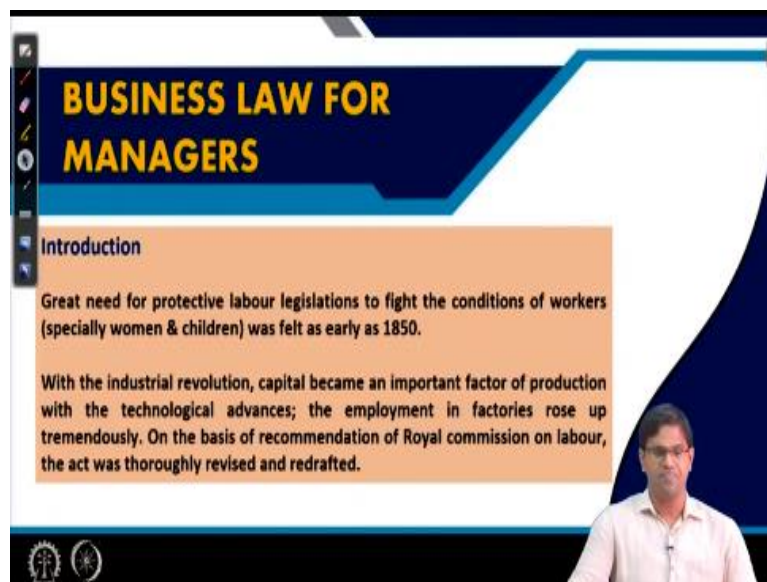
When we consolidate the consistency comes into picture, any review or updating is also considered. Now, if we look at the 4 labour codes, what are those 4 labour codes? First labour code was focusing on occupational health, safety and working condition and second is on code on wages. So, wages, it will cover all the payment of wages, minimum wages, bonus and all that.

Then social security, the code on social security, the social security will primarily focus on various aspects of social security legislations like provident fund, gratuity, employees' state insurance, all that is are covered under the social security. Then the last one is industrial relations. When we; talk about these codes on industrial relations, which is primarily focusing on the dispute, industrial dispute, talking about various aspects of layoff, closure, terminations and retirement.

All these are handled by this particular code, which is also talking about what are the mechanisms as a government has bringing up to ensure that there is ambience at the peace exists in our industry with respect to the worker and management. So, these are the larger 4 labour codes. Now, coming back to our lecture, how we are actually designing, though the labour codes are already been consented by the President of India.

Some of the labour codes are yet to be implemented. So, what we are actually going to cover is we are going to broadly covered all aspects of the important aspects of the labour legislations that is going to be the primary aspect of our particular these 4 models. So, now, the first one we are going to talk about factories act. Factories act is actually going to focus on the aspect of health and safety and work cover aspects.

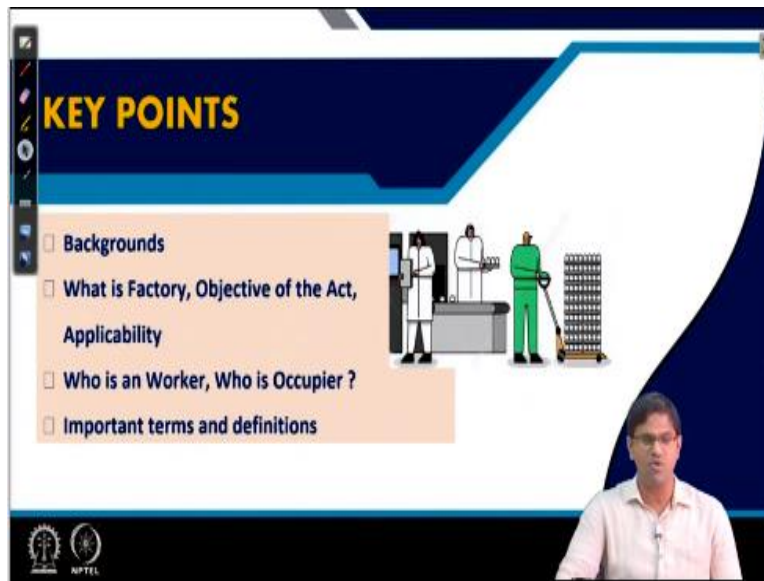
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So, on this first module lecture, what we are going to cover is upon why this factory act. If you look at the development historically if you look at, you know, there is always a greater need for labour legislations, because after the industrialization and industrial revolutions, there were larger amount of economic activity was happening, but eventually there is also a lot of exploitations on the workers were parallely simultaneously happening occurring.

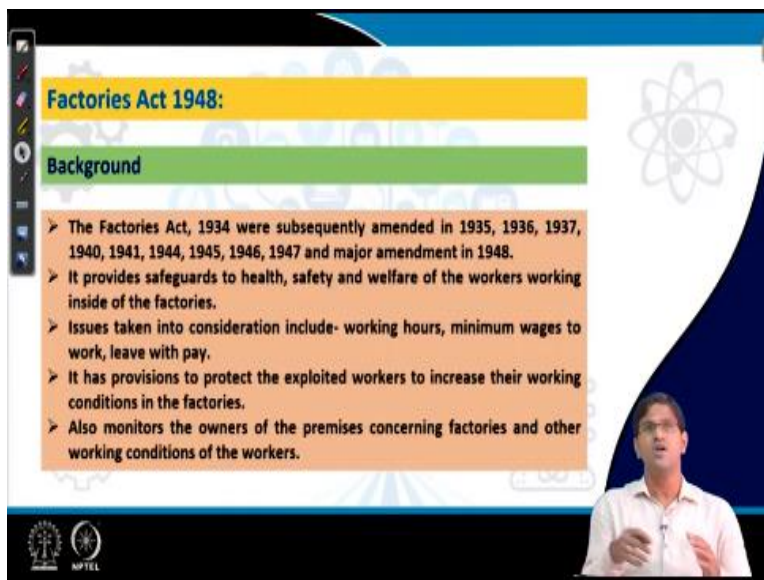
So, there is a larger need to regularize the working conditions for the workers, so that workers are working in a safe environment and their rights are being protected. So, there comes with the recommendation or royal commissions labour, this act was primarily introduced.

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And if you look, now, what we are going to cover in this particular lecture, we are going to cover upon background of this particular legislation. And we will also define what is factory as per these legislations and what is the objective of this particular legislation and the largely applicability of this legislation. And we will also talk about who is worker as per these legislations and who is the occupier and we will also see some of the other important terms and definitions which are covered in this particular legislation.

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So, now, let us understand the background of these legislations. This act was first enacted in the year 1934. Subsequently with a lot of changes happening, there were many amendments were taken place from 1935, 36. Subsequently, there are so many amendments and major amendment, but took place in 1948 and it provides a safeguard to health and safety, welfare of the workers, working inside the factories.

Though, it is also taking consideration into working hours, minimum wages and then leave with pay, all these aspects also covered, it will be talking about how many hours and worker has to work in a factory, what is the maximum number of hours allowed beyond these minimum workers and it also provides the provisions that protect the workers to ensure that they are working in a safe working condition.

It also monitors the occupier of the factory meaning that the owner of the premises that the ensuring that yes, you are bound by these regulations and how you are going to provide those safe working conditions for the workers in the factory.

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The slide is titled "Factories Act 1948:" and "What is factory?". It contains the following text: "A factory has been defined in the Factories Act as 'a premises whereon 10 or more persons are engaged if power is used, or 20 or more persons are engaged if power is not used, in a manufacturing process.'" To the right of the text is an image of a factory. Below the image, there is a handwritten note in red that says "10 or more persons -> 'Factory'". The slide also features a hard hat icon and the NPTEL logo at the bottom.

Now, let us come to the definition of who are all considered as a factory. As per the legislations, a factory is a premises wherein 10 workers or more persons when the factory has engaged with the power, the power being used power, I am talking about the electricity power or premises or an activity industry activity where it has more than 20 people where the power is not used.

Now, comes the question, why these definitions are important? Let us say there can be because when the moment they have been classified as the factory, you need to here register yourself as a factory under these legislations; you need to get the certificate of the operations and factory inspector has to provide you the license and you need to time to time the renew your license. So, that is why the definition comes important.

Let us say I am a factory; I do not have 20 workers I do not also use power. My worker is less than 20 that is where then you are not factory as per this definition. So, meaning that you are exempted from not registering or subsequent renewals. That is why the definition is very important. If you are using 10 or more workers with a power, you are called as factory and in case if you do not use power.

But if you are employing more than 20 workers in your particular premises, then you are called as a factory, in the moment you are called as a factory. You need to register as a factory and every year, you need to renew your licenses and when you have you know, registering for a factory, you will have to mention what is the horsepower that you will use in your factory, how many workers are going to be working in a particular factory?

For example, in first year you have 100 workers, okay and then let us say subsequently a second year, you are increasing to 250 workers, so, when you are you know renewing, you need to update these information's on the factories certificate. So, where do they register for this factory? Every state government has a different way of covering the certificate. Now, most of these you know state governments have made it as a you know, online certificates.

This final, one has to register with the inspector of factories and they will assess the demons and the fitness of your applications and after the review, you will be issued with the license.

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Factories Act 1948:

What is Manufacturing process?

Here Manufacturing process means any process for-

- 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; or
- Pumping oil, water, sewage or any other substance; or
- Generating, transforming or transmitting power; or
- Composing types for printing, printing by letter press, lithography, photogravure or other similar process or book binding
- Constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels;
- Preserving or storing any article in cold storage.

Shops & Establishment Act

Now, comes what is manufacturing process? Because this act is actually covering about any factory which are engaging in a manufacturing activity. These particular factories act is not

covering on the services, service industry. What does it actually cover? Shops and establishment act. Shops and establishment act which covers the service industry in this particular case. So, these particular factories are at primarily focusing on the factory which are into a manufacturing particle.

Now, comes who are all; what are all the manufacturing processes? If you look at this, it covers a wide variety of activities, you can look at you know, the manufacturing process means any process for making, altering, repairing, ornamenting, finishing, packing, oiling and if you took a lot of activities been broadly covered, that actually makes most of the people who are engaging in these activities are engaging in a manufacturing process.

The moment whereas engaging in a manufacturing process, what is it coming back? Connect with the definition of the factory, yes if you are engaging in a manufacturing process, whether you are no generating, transforming, transmitting power and or composing the types of printing, printing by letterpress, lithography or constructing, reconstructing, repairing, refitting, finishing or breaking up shapes and vessels, all these activities are a manufacturing process.

When you are doing a manufacturing process with the power and more than 10 workers, you need to register yourself as a factory that is why the definitions are important. Some time, you know, some activity may not be listed here. Then you are not in a manufacturing process. You may be covered under different legislation. So, it is not mandatory that you will not be imposed to follow these regulations because you are not conducting, doing a manufacturing process. And you are not required to enroll or register for the factory certificate.

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Factories Act 1948:

Objectives of the Act

- To prevent human beings from working long hours with bodily strain or manual labour.
- To provide the employees to work in healthy and hygienic conditions.
- To safeguard the workers from hazardous works and the prevention of accidents.
- To ensure annual leaves with wages.
- To protect women and children in the course of employment.

Handwritten notes:
 → Max work hour /day /week
 → Overtime →

Now, what are the objectives of the act? See, these acts are the primarily as said, it is focusing on you know, working hours, regulating the working hours. So, when you know if you look at you know, regulating working hours, it will say what is the maximum work hour, maximum work hour per day, per week then let us say somebody is working overtime, we will be talking about all this aspect in this.

So, this act actually provide very clear information about, what is the maximum work hour the employee or the worker has to work per day, per week and it also talks about what is the maximum number of overtimes is beyond which the regular work hours, how many hours a worker can actually engage and what is the you know, reciprocal benefit to be provided for the overtime work hour also.

Then it also provides employees to work in a healthy and hygienic condition. That is why it is very important. So, factory has to provide a safe, health and working conditions for the workers. Then it also tries to safeguard the workers from hazardous work and prevention of accidents. So, this act will mandate the factories to follow certain practices, best practices with respect to health and safety, securing the you know machineries, ensuring the safety of the machineries, operation of the machineries and also fire safety in the factory.

What are the fire safety practicing the factory has? What are the risk assessment factories doing? So, that workers are not risking themselves when they are engaged in a particular work and it will also talk about annual leave with wages, there are concept of you know, various leaves you know, casual leaves earned leave. So, when earned leave, how many days

only you should be provided to the workers. So, that they also enjoy certain days in every year as an earned leave.

Then it also protects women and children in the course of employment. So, we are talking about a prohibition of child labourers in the workplaces. This particular legislation is talking about, when you are employing women or young children or an adult adolescent in the factory so, this act also says, there are certain activities are in the industries where child workers are allowed this where it is going to regulate.

In case if a factory is engaging a woman or a child worker in a factory, what are the conditions that they have to carry out. So, this act provides a very comprehensive perspective to secure the workers in terms of health and safety, in terms of their workers, in terms of their hygienic conditions in the factory.

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The slide features a blue header with the title 'Factories Act 1948:' in a yellow box and 'Importance' in a green box. An illustration of a factory with a red and white lighthouse is positioned in the upper center. A large orange box contains three bullet points. In the bottom right corner, a man in a white shirt is speaking. The slide also includes a navigation toolbar on the left and logos for 'MOTEL' and 'MOTEL' at the bottom left.

Factories Act 1948:

Importance

- The Factories in India is considered as the most important units in order to bring out economic development, also it is the duty of the state to safeguard every citizen of India with health and safety conditions which are a most important notable thing for the employees in factories.
- The factories act has been adopted to safeguard the interest of workers, protection and preventions in hazardous works, health and safety in the working zone.
- It is to stop their exploitation, demanding the employers and managers to protect every employee and protection of women and children.

Now, we will also look at what is the importance of this particular legislation. See, factories in India is considered as the most important units, you know, to make a lot of economic development, but at the same time, it becomes the duty of the state here means, we are referring to the central government as well as the state government to safeguard every individual worker with a proper health and safety conditions in doing this particular activity.

It is not only about driven by the economic activity, but at the same time, you ensure people engage in this economic activity to be secured with a safe working condition in terms of no harm, no risk being in the factory or in case if you are working in a particular missionary or

you are working in a particular set of activity, how do you secure the workers in terms of providing additional personal protective equipments.

For example, the helmet or a goggle or maybe other protective system which are required to work in a particular setup activity. Then factors has been adapted to safeguard the interests of the workers in terms as we say, the hazardous work you know, understanding from working in hazardous works or in case if there are some processes, which is as hazardous in nature, what type of protections or security that factory is going to provide and also provide health and safety in the factory.

And this act is also goes to you know, stop think the expectations or demanding or requesting or mandating the employers and managers to protect every employee and also especially the vulnerable categories of this, which is women and children were being employed in a particular factory.

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Factories Act 1948:

Salient Features

- To ensure the safety of the workers, the factories should be fully fenced and children should not be allowed to work in hazardous and confined areas. Also, the state government has to monitor every factory to ensure the safety measures are taken and followed as per the guidelines.
- For the welfare of the workers, there must be restrooms, lunch or tiffin rooms, first aid appliances, shelters, crèches to be provided. The facilities for washing to be provided and maintained properly for the interest and purpose of the workers.

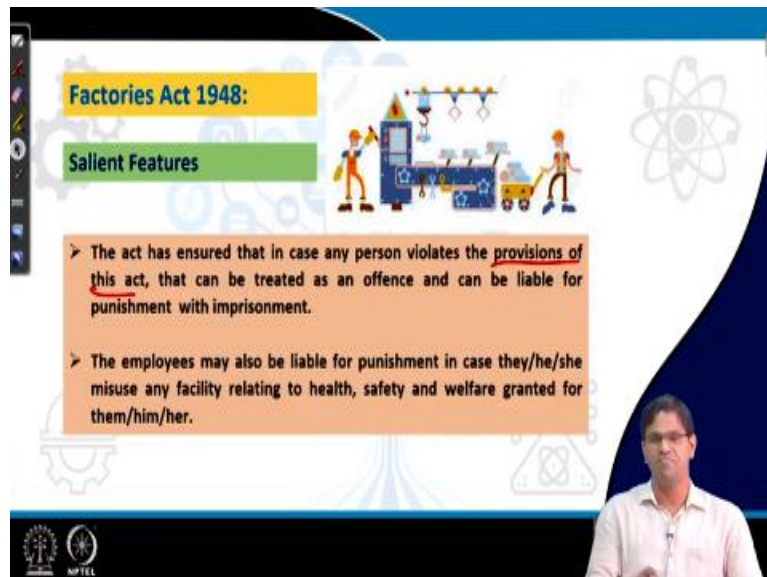
Now, other acts also, it also tries to ensure the safety to the workers. Where it says okay, every factory has to have a boundary and you know, children should not be allowed in certain hazardous processes or you know physically demanding work. And you know, it is the responsibility of the inspector of the factories or state governments representative to monitor every factory that yes, you know child or women are not being asked to work in the certain restricted processes.

And you know, every factory follows these safety measures. So, meticulously, they are compliant with the requested health and safety measures. And it also talks about the welfare of the workers. So, it talks about yes, as a factory, you should provide restrooms, dining place or a canteen area and you know, keep first aid boxes or appliances on the production floor, or you know, assembly line, wherein you also the factories that also ask that yes, you have to train some of the workers on the first aid.

So, that in case any untoward incident happens, there are persons who are trained on providing the immediate first aid to the particular workers. And it also talks about you know fire safety practices, you know, fire suppression system in the factory and to provide you know Creche facilities for women who have you know children below 6 years of age.

When a factory has many women with children below the age of 6 years, factory has to provide a childcare centre wherein the when a woman worker can bring their children and place them there, there should be a caretaker who can look after them. So, that you know these women worker need not to worry about the young kids which are at home.

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Factories Act 1948:

Salient Features

- The act has ensured that in case any person violates the provisions of this act, that can be treated as an offence and can be liable for punishment with imprisonment.
- The employees may also be liable for punishment in case they/he/she misuse any facility relating to health, safety and welfare granted for them/him/her.

And it also laid down about the working hours. It is also talking about yes, workers should not work beyond the 48 hours per week, meaning that 8 hours per day and 48 hours per week maximum and it is talking about 6 days work and there should be a mandatory one day off for every within every 7 days. Ideally, the first day of the week is a Sunday.

The factories act says that yes, ideally it can be a first day of the week, which is a Sunday or you know, based on the consultations or the locations of the regions, its factory operates at least one day within the 7-day period has to be weekly off day for the workers. Then it also says in case if a worker happens to work on the particular weekly off day, within next 3 days, they have to be provided with a compensatory holiday.

And if the work on the particular weekly off day, they have to be treated as an overtime work and have to be provided double the wage rate for any worker who is working on those particular things. And they also request management providing facilities like restrooms, adequate lighting, ventilators, check that you know, temperature has to be checked.

And if there is you know some processes, where the temperature is really high, an organisation has to provide various other ways to bring down the temperature and also regularly monitor the health of the workers who are engaged in those critical processes or the you know most hazardous processes. And it also says that, yes, if anybody violates the provisions of this act and we are going to see in this particular module, all the important provisions.

Anybody violates these provisions, it is treated as an offence, it is a violation and can be liable for punishment with varying punishment degrees with respect with some imprisonment and fine as well and employees may also be liable. I am talking with the workers, workers also liable for a punishment in case if they misuse any facility related to health and safety, welfare granted to them. So, there is an obligation both from the employer as well as the employee to follow and adhere to these conditions and provisions provided.

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Factories Act 1948:

Who is an Worker ?

➤ An Worker is

- A person employed in any manufacturing process or cleaning or any work incidental to manufacturing process.
- A person employed, directly or by or through any agency with or without knowledge of the principal employer.
- Whether for remuneration or not. Relationship of master & servant

Handwritten diagram on the right side of the slide:

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graph TD
    PE[Principal Employer] --> CA[Contractor/Agency]
    PE --> SC[Subcontractor]
    CA --> W[Worker]
    SC --> W
  
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Now, let us talk about who is worker as per this particular legislation. Worker is a person who is employed in any manufacturing process, it can be cleaning or any other activity, we are talking about a manufacturing process, which are listed down earlier in our slides that so many activities are listed as the manufacturing process or any worker incidental to the manufacturing process, they are also worker and any person who is employed directly or through an agency or even without the knowledge of the principle employer.

Let me explain this concept. See, it is not that always a person who is working the particular factory premises, let me call this as a factory premises, anyone who works inside this particular factory is an employee worker and you know, this worker may not be employed by the particular factory. Let us say Mr. X is there you know occupier, meaning the owner of the factory, here, he is not employee but maybe this person is employed through a contract agency or maybe by a subcontractor as well.

So, anybody who works in this particular factory engaged in the manufacturing process called worker and you know, this becomes and this particular person in case of this, let us say, you know, he has been hired from a contractor or subcontractor and he becomes a principal employer. So, in the sense, he or she becomes responsible to ensure that yes, whether they are directly employed by me or employed by the contractor or subcontractor and any kind of relationship, somebody works inside my factory.

It is my legal responsibility to ensure all these aspects of the health and safety provisions and working hours are regulated as per these legislations and the principle employer become responsible for this implementation.

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Factories Act 1948:

Who is an Occupier ?

The person who has ultimate control over the affairs of factory.
It includes-

- A Partner in case of firm and Director in case of a company.
- In case of Government Company, the occupier need not to be a Director. In that case person appointed to manage the affairs of the factory shall be treated as occupier.

Occupier -> Principal Employer / Employer / Discharge Owner / have duties

Then, let us talk about who is occupier. Occupier, we are referring to the owner of the factory or who is responsible person for the particular factory. Who is this? He or she is the person with ultimate control over the affairs of the factory meaning that you know, running the factory affairs, the day-to-day activities, maybe the capital investor or looking after the whole operations of the factory.

It includes can be a partner in a firm or a director in case of a company if we are registered as a company or a partner in a partnership firm, he or she is called as an occupier. In case of a government company, so, now, we think government is also running a factory. For example, railway workshops, you know so many public sector, public limited companies, we have.

In case of a government company, the occupier may not be a directive, not always a director, but in case if somebody is appointed as an executive manager or you know, managing director on an executive who manages the you know, activities of the factory can be called as an occupier. So, why we are concerned about occupier? Because occupier is what we are referring to as a principal employer or otherwise called as an employer or can be an owner who is responsible to discharge these duties, that is why the occupier is important to understand.

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Factories Act 1948:

Important Terms and Their Definitions

- **Adult :**
An 'Adult' means a person who has completed his eighteenth year of age.
- **Adolescent :**
An "Adolescent" means a person, who completes his fifteenth year of age but not his eighteenth year. Hence, he is someone who crosses the age of a child but is not an adult yet.

Handwritten notes: < 18 Years, 15-18 Yes

Next, the other terms which are defined which is important you know, adult. How to do are adult? Anybody who has completed 18 years of age are adult meaning they are allowed to work in a factory. Now, talking about adolescent, adolescent is the person who completes 15 years of age, but not 18 years. So, between 15 and 18 years of age are called adolescent and now, the question comes, can they employ a person less than 18 years of age?

We are talking about you know, child labour prohibition act, but as per these factories' adolescent ion, yes, there are a set of activities where factory can employee less than 18 years can be an adolescent or even a child worker which. We will also see who is child.

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Factories Act 1948:

Important Definitions

- **Child :**
A 'child' means a person who has not completed his 15th year of age.
- **Young Person:**
A person who is either a child or an adolescent.
- **Competent Person :**
A "competent person", with any provision of this Act, means a person or an institution recognized as such by the Chief Inspector to carry out tests, examinations and inspections required to be done in a factory.

Handwritten notes: 15-18, < 15 - Child, Child Worker - Permitted

Child is a person who is not completed 15 years of age. Now, you consider that there are 2 categories of workers you know, between 15 to 18 are adolescent and less than 15 who are

child. Now, so, this act says yes, these adolescent and children can be employed, but that is regulated. We will be seeing that in one of the modules, one of the lectures that okay, what is that you know, rules which are governing the in case if a factory employs child worker in a factory.

So, child worker cannot work within the restricted work is there and also, they cannot be employed on a certain activity, they cannot work more than you know, 4 and a half hours in a day and those regulations are coming into picture and child worker has to be examined by the doctor and every time when a child works in a factory, he or she has to be provided with a particular tag in their arm, so that they can be easily identified. Why?

In case of any risk anything so, it is always you know, child and adolescent workers has to be given with some tags to be placed with an arm or in some way so that you know, these workers can be easily differentiated from the regular workers. So, that is why this act was talking about who is an adolescent, who is child. And young person is either child or adolescent.

Then now, comes who is a competent person. When you are talking about a competent person, why we are concerned about a competent person, because the competent person becomes the responsive person to make assessment meaning that when we say a lot of rules and regulations and the provisions are made by these legislations, the competent person becomes the responsible person to visit and see whether this factory is compliance with all these regulations or not.

So, that is why the competent person is important. So, who is a competent person? So, the competent person is by a chief inspector to carry out you know, the factors inspector to carry out tests, examinations and inspections required to be done in the factory.

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Factories Act 1948:

Applicability

➤ The Act is applicable at any place wherein manufacturing process is carried on with or without the aid of power or is so ordinarily carried on, not with standing that:

- The number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or
- The persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with, such owner

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So, now comes, the last aspect of this particular lecture, the applicability. So, where this act is applicable? So, this is applicable to play all places where in the manufacturing process is carried out. Now, you understand why we defined you know, studied the definition of manufacturing process. Wherein the manufacturing process is happening, this is applicable with or without power.

When we say with power, what is the definition says, it should be you know, with power, it is 10 workers and if without power, more than 10 20 workers, so, then in this case, those factories are governed by this legislation. The persons are working wherein not employed by the owner, but are working with the permission or under the agreement with such owner meaning that you know with agreement with the contract agency, if they can that is also applicable.

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So, these are the references.

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CONCLUSION

In this lecture session , we have discussed on the backgrounds, concept of factory, objective of the factory act, applicability, concept of worker, and occupier with an aim to give an idea about all of these to the learners.

Today, we have actually started with the basic understanding about how, what are the labour codes which are existing and we also understood the background for these particular registrations. Why these factors are what is it actually covering upon, we discussed about the some of the basic definitions with respect to you know we discussed about worker, occupier, child, adolescent, young person.

We also studied about who can use a factory and so, that now, when they qualify as a factory, they have to register as a factory. So, thank you so much. We will be seeing the other aspects of these factory's legislation in the subsequent lectures. Thank you