

PAYMENT OF WAGES DURING EPIDEMIC

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The year 2020 has started off as a disaster. Nobody really anticipated the outbreak of a virus which is quite popularly known as COVID-19. The outbreak has led to a global epidemic and finally a pandemic shutting down the whole economy of the world. Different nations are trying their best efforts to put the whole nation under lockdown. Quarantine has put everyone in their houses not being able to go outside and do the usual things as people would. This has taken a toll for the public and the economy, but it a key to containing such pandemic. The world is not going to be the same as before until there is a vaccine or some sort of medical treatment which is present in the market. During this outbreak, pharmaceutical companies are on a race to produce drugs and vaccines for coronavirus.

It has been a horrid start to the year and the lockdown period has kept everyone in their homes for long period. This has taken a vigorous toll on small time vendors and markets. The ones who are most effected by the pandemic and the lockdowns are the daily wage workers. The daily wage workers who work on construction site have been evicted from their homes and asked to leave. These daily wage workers are not necessarily from the same town, so they have to move back to their village or hometown amid this lockdown. These people do not have sufficient money or any kind of savings since their income was based on the daily wages they did. Most of the daily wages workers caught the earliest buses and moved to their hometown, some of them not having any kind of transport facilities due to the lockdown and having to accommodation to stay at the place of their work had to walk back to their hometowns. Many of them on the journey back home have fallen ill and died due the heat and insufficient amount of food and water.

During this time we must also take in consideration about the livelihood of transgender community as they do not have a legit source of income, as their income depends on the daily wages. Some of the states such as Andhra Pradesh, the High Court has asked the states to provide the transgender community with daily essential and not to ask for their identity cards.

Amid all the chaos happening, people are losing their jobs, salaries and being cut down and companies are laying off people. This has become stressful on the public and the economy of the country. There has been so much talk on whether the employers must pay their workers during the COVID-19 situation, however the many of the employers have taken a holistic view towards paying their workers. It's now in the hands of the workers to join with the employers, involving the government to take measure regarding their payment.

However there is a section of owners who are discarding workers claim for wages, which has brought about arguments by lawyers and various labour experts saying that the various orders and notification issued by the Central government invoking the provisions of Disaster Management Act, 2005 are without jurisdiction and hence cannot stand the test of judicial scrutiny. On these grounds it is argued that payment of wages during lockdown period is merely a moral obligation and not a statutory mandate, it is also contended that employers are just not free to deny wages but also lay off workmen and then retrench them.

The popular misconception at the moment is that the Union Home Secretary has passed orders and advisories for lockdown and associated guidelines, so the orders are statutory in nature which are being passed by the National Authority and National Executive Committee constituted under the NDMA. The ones ordering the lockdown is mandating payment of wages to workmen during lockdown period are statutory orders under section 10(2) (1). Therefore, if there is a breach or violation of this rule, it's not just a moral wrong, but an offence inviting penalty and punishment both under NDMA and the Indian Penal Code, 1860. The Union Home ministry has asked the states to publicise the penal provision across the states to create awareness to the stakeholders.

As we now look into the constitutional mandate, the lockdown has been ordered under the NDMA and the directions of payment of wages are inseparable. Now if the lockdown is separated from the payment of wages is a violation of Article 21, the right to life. During such calamity payment of wages must not be viewed in narrow compass of employment law. Payment of wages during lockdown is merely a constitutional mandate. Payment of wages aids in protecting life and also disaster management primarily aimed at containing migration and resultant aggravation of pandemic.

Labour legislations were made for the business as usual scenarios, where NDMA and EDA which are special laws that can override the generic laws. Section 72 of the NDMA, has an overriding effect over all other laws. COVID-19 has been classified as a disaster under the NDMA. Disaster and natural calamity have been contradistinguished. In case of natural calamities and non-manmade disasters, the Industrial Dispute Act provides for layoffs. Hence section 25 of the ID Act cannot be invoked, but as per the directions of lockdown, denying payment of wages is a violation.

To conclude this article, we have come to understand that the pandemic has shown certain aspects where we lack as a nation and society. It's now up to the capital and the labour to act in mutual interest by exploring ingenious methods to sustain. The pressure is not only on the employers, employees and industries, but it on the whole nation. We as citizens of the country must take a step forward in helping the daily wages workers in whatever capacity we can. Finally, the daily wages workers must be paid during lockdowns and must not be denied of their daily wages.

