



ORIGINAL RESEARCH PAPER

Law

LOCK-DOWN V/S. LOCK-OUT

KEY WORDS: LOCK-OUT – INDUSTRIAL DISPUTE ACT – LOCK-DOWN – COVID-19

Prof. Dr. Samir A. Runja Assistant Professor, SHETH D. L. LAW COLLEGE, COLLEGE ROAD, BHUJ – KACHCHH-370001.

ABSTRACT

In the era of Industrial Disputes in India there are some important terms which are well-known for us i.e. “STRIKE AND LOCK-OUT, LAYOFF AND RETRECHMENT”. These terms are cover under the Industrial Dispute Act – 1947. Similarly we are familiar with one another term i.e. “LOCK-DOWN”, which term is relevant with COVID-19, also this term is well-known by universally. Researcher tries to study on particular both the term “LOCK-OUT & LOCK-DOWN”, one term relevant with I.D. Act-1947 and another term is relevant with COVID-19. In this research paper researcher clear the actual definition and some important relevancy on the subjected topic.

INTRODUCTION

Every right comes with its own duties. If you want to enjoy more powerful rights you must obey duties to the nation, in the democratic countries every citizen of the nation should follow by this principal. India in the current scenario context to economic development (VIKAS) cannot effort the unqualified rights to the workers for Strike viz-a-viz employer for Lock-out. Alternate remedy is available like Arbitration, Collective Bargaining, compounding etc. The distinction between lock out and lay off was well brought out by the Supreme Court in *Management Of Kairbetta Estate, Kotagiri P.O v. Rajamanickam & Others reported in (1960) 3 SCR 371 = AIR 1960 SC 893* and in paragraph 8, the Supreme Court had observed as follows: 8. Stated broadly lay-off generally occurs in a continuing business, whereas a *lockout* is the closure of the business. In the case of a lay-off, owing to the reasons specified in Section 2(kkk) the employer is unable to give employment to one or more workmen. In the case of a *lockout* the employer closes the business and locks out the whole body of workmen for reasons which have no relevance to causes specified in Section 2(kkk). Thus the nature of the two concepts is entirely different and so are their consequences. In the case of a lay-off the employer may be liable to pay compensation as provided by Section 25-(C),(D) and (E) of the Act; but this liability cannot be invoked in the case of a *lockout*. Therefore, we hold that the *lockout* in the present case was not a lay-off, and as such the respondents are not entitled to claim any lay-off compensation from the appellant.¹

LOCK-DOWN, as per the Cambridge Dictionary, “a situation in which people are not allowed to enter or leave a building or area freely because of an emergency” example of lockdown “The emergency safety protocol drills would include *lockdown*, evacuation and reverse-evacuation, and shelter in place drills.”² The foundation stone of Lock-Down in India was formally known as JANTA CURFEW, was scheduled on 22 March, 2020 for 14 Hours i.e. from 7 a.m. to 9 p.m., on that day all the citizen were asked to stand in their balconies, windows, doorstep and clap their hands, ring the bells, for the appreciation to the COVID-19's worriers for their humble essential services. This humble requested was done by our Honourable Prime minister of India.

LOCK-OUT : AS PER THE INDUSTRIAL DISPUTE ACT – 1947 :-

Lock-Out defines in the Industrial Dispute Act-1947 under the Section 2 (1) : "lock-out" means the temporary closing of a place of employment] or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him. lock-out seeks to deprive persons employed by him of the opportunities to work, diminishes their earning in the hope that resulting economic strain would compel them to come round to employer's point of view.³

However, when a lock-out declared by the employer is

unjustified, the workmen are entitled to their full wages for the whole period of the lockout. The workmen are not bound to report for work or to take part in any conciliation proceedings, while the illegal lock-out continues, and their claim to wages for the period of lockout cannot be denied merely on that account. When lock-out is declared in consequence of an illegal strike, ordinarily the workmen are not entitled to wages for the period of the lockout, but if the lock-out duration, both parties are equally to blame for the situation which arises and the workmen should get half their wages for the period of lock-out.³

Why the word 'lockout' ? Lock made is not permanent that can be closed and opened. The word 'out' can be understood as keeping temporarily away management and employees from the factory, till settlement of the issues caused to lockout.⁴

THE REASONS BEHIND THE LOCKOUTS

- Disputes or clashes in between workers and the management.
- Unrest, disputes or clashes in between workers and workers.
- Illegal strikes, regular strikes or continuous strikes by workers may lead to lockout of factory or industry.
- External environmental disturbance due to unstable governments, may lead to lockouts of factories or industries.
- Continuous or accumulated financial losses of factory or industry, may lead to opt lockout by the management.
- Maybe lockout, if any company involves in any fraudulent or illegal activities.

LOCK-DOWN :-

After the Janta Curfew, Government of India, our Honourable Prime Minister of India declared the Lock-Down for 21 Days in India on 24th March, 2020. 130 Crore peoples of India was protected against COVID-19 with the help of Lockdown. That was preventive measures against COVID-19 by Government of India.

Phases of lockdown in India, Phase 1: 25 March 2020 – 14 April 2020 (21 days), Phase 2: 15 April 2020 – 3 May 2020 (19 days), Phase 3: 4 May 2020 – 17 May 2020 (14 days), Phase 4: 18 May 2020 – ongoing (8 days); scheduled to end on 31 May 2020.

The Government has divided the entire nation into three zones—green, red and orange—with relaxations applied accordingly. The impact of Lockdown mainly effected to, Humanity special for, Migrant worker, Food supply Chain, animals, Education system, medical system, transportation etc.

CONCLUSION :-

Lock but not down, means we are fighting against COVID-19, in India the Constitution of India's Article – 21 says “No person

shall be deprived of his life or personal liberty except according to a procedure established by law.” and it includes Right to Health also, but it not cover Right to Death. So out great Constitution of India provides us grate Fundamental Rights as well as Human Rights also. Regarding the COVID-19 researcher thinks that here Government of India is protecting our Fundamental Rights. According to Bhagwati, J., Article 21 “embodies a constitutional value of supreme importance in a democratic society.” Iyer, J., has characterized Article 21 as “the procedural magna carta protective of life and liberty. In *Sunil Batra v. Delhi Administration* [AIR 1978 SC 1675], the Supreme Court held that the “right to life” included the right to lead a healthy life so as to enjoy all faculties of the human body in their prime conditions. It would even include the right to protection of a person's tradition, culture, heritage and all that gives meaning to a man's life. It includes the right to live in peace, to sleep in peace and the right to repose and health.

In this article researcher focus on Lock-Out the term which is similar to Lock-Down here is difference is for Our and Down but both the term carry Lock as common term. Researcher also finds that the both the term are relevant with the Fundamental Rights of Citizens. (1) Lock-out relevant with labour laws and it interpreted by Indian Judiciary (2) Lock Down the term also link with the Article 21 of the Constitution of India i.e. Right to Life, and it is also interpreted by the Indian Judiciary also.

Researcher also finds that every citizen of India have follow the Fundamental Duties which are mention in the Constitution of India are as under :

**PART - IVA
FUNDAMENTAL DUTIES**

51A. Fundamental duties.—

It shall be the duty of every citizen of India—

- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;

REFERENCES

1. <https://www.casemine.com/search/in/lockout%2Bcases>
2. Suresh C. Srivastava, *Industrial Disputes and Labour Management Relations in India*. Deep & Deep Publications, Delhi (1984) p. 131.
3. *Indian Marine Service (Pvt) Ltd., v. Their Workmen*, AIR (1963) SC. 528.
4. <http://www.whatishumanresource.com/lockouts>