

<b>College:</b> J D Women's College	<b>Subject:</b> Labor & Employment Laws in India
<b>Dept:</b> MBA	<b>Unit/Topic:</b> IV/Standing order Act, 1946
<b>Semester:</b> 3 <sup>rd</sup> (HR specialization)	<b>Faculty Member:</b> Kundan Kumar Gautam

## **The Industrial Employment (Standing Order) act, 1946**

### **Lecture Notes - 3**

#### **# Condition for certification**

On receipt of the draft, the Certifying Officer shall initiate to certify the Standing Orders in accordance with the procedure laid down in Section 5 of the Act which provides that all the registered trade unions, and in the absence of the registered trade unions, five elected representatives of the workmen, shall be given an opportunity to raise objections to the proposed draft Standing Orders.

The Certifying Officer is also required to ensure that provision is made in the Standing Orders for every matter set out in the Schedule applicable to the industrial establishment and the Standing Orders are in conformity with the provisions of the Act.

For this purpose, the Certifying Officer shall adjudicate upon the fairness or reasonableness of the Standing Orders and shall then certify them.

#### **# Date of operation and display of these Orders;**

After certifying, the Certifying Officer should send the authenticated copies together with the orders referred to above, to the parties within 7 days from the date of his orders. The Certified Standing Orders become enforceable on the expiry of 30 days from the date on which the authenticated copies of the same are sent to the parties provided no appeal has been preferred against them. Certifying Officers and appellate authorities have been vested with powers of Civil Courts for the purpose of receiving evidence, administering oath, enforcing the attendance of witnesses and compelling the discovery and production of documents and are deemed to be civil courts within the meaning of Sections 345 and 346 of the Code of Criminal Procedure, 1973 (2) of 1974.

## # Modification of Standing Orders

Under Section 10 of the Act the provision exists for modification of the Certified Standing Orders. The Standing Orders can be modified even before expiry of the prescribed time limit of 30 days provided both the management and its workmen agree for it. The employer or the workmen desiring the change can make application for modification to the Certifying Officer. The procedure for submission of application for modification is the same as for initial certification under the Act. When it is proposed to make modifications by agreement between the employer and workmen, a certified copy of that agreement has also to be filed along with application for modification.

## # Machinery for Enforcement of the Act

The Act makes provision for appointment of Inspectors for its strict enforcement. The following offences are punishable under Section 18 of the Act and the Central Industrial Relations Machinery is to take suitable action wherever infringements of the provisions come to their notice:

- Failures on the part of an employer to submit draft Standing Orders as per the requirement under Section 3 of the Act.
- Modification by employer of the Certified Standing Orders otherwise than in accordance with the prescribed procedure, and
- Any action of the employer, which is in contravention of the provisions of the Certified Standing Orders.

## # Procedure for Certification of Standing Orders

The process for certification of standing orders is specified below:

**Step 1:** On receipt of the draft standing orders, the certifying officer will forward a copy to the trade union together with a notice in Form-11 where there is a trade union functioning in the industry. In case of no such trade union, the Certifying Officer will hold election of three representatives by the workmen from among themselves or authorize

any officer in working to hold such election, and then a copy of the notice in Form-II can be forwarded.

**Step2:** Certifying Officer after hearing make necessary modification in the draft standing order if required and certify the same and within seven days the copies of the standing order authenticated by him will reach to the employer and the trade union or the prescribed representatives of the workmen.

**Step 3:** Any employer, workmen, trade union or other specified representatives of any workman aggrieved by the order of the Certifying Officer within thirty days from the date on which copies of the certified standing orders are sent can be submitted as a memorandum of appeal setting out the grounds of appeal in Form-IV in quadruplicate appeal to the Appellate Authority.

**Step 4:** The Appellate Authority can proceed after giving the appellant an opportunity of being heard will pass final order on the appeal petition, and his decisions will be made final.

### **Penalty**

- If an employer defaults to submit draft standing orders or modifies his standing orders, then the concerned officer may impose a penalty which will be above Rs 5,000 (five thousand), and in the case of a continuation of offence may impose a fine which will be above Rs 200 (two hundred) for every day till the offence continues.
- If the establishment does any act in violation of the standing orders after getting certified under this Act, then the employer will be punishable with the penalty of which will be more than Rs 100 (One hundred), and in the case of a continuation of offence may impose a fine of Rs 25 (twenty five) for every day till the offence continues.