

The Concept of Strike under Industrial Dispute Act, 1947

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Introduction

The concept of Strikes and Lock-outs are universal terms and can be said as the two sides of same coin. Strikes are the tools in the hands of the workman and are one the components of collective bargaining. On the other hand employers can resort to lock-out to compel its demand. Strike is a stoppage or cessation of work by workmen. The concept of strikes and lock-outs has been recognised under chapter VA of the Industrial Disputes Acts, 1947.²

Definition

Strike is defined³ as,

“A cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal, or a refusal, under; a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment”

According to the definition, the main ingredients are necessary to constitute a strike is,

- a) An Industry.
- b) Cessation of work or refusal to do work by workmen
- c) Acting in combination or concerted action

There are different forms of strike like sit down, go slow Strike, sympathetic Strike, Hunger Strike etc.⁴

Prohibition of Strike in Public Utility Service (Sec 22)

The section 22 lays down procedure of strike and without following it, a strike can be declared as unlawful. It is essential to mention here that law as such does not prohibit or ban strike but

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² Sec. 22, 23, 24, 25 of the Industrial Dispute Act, 1947

³ Sec. 2(q) of the Industrial Dispute Act, 1947

⁴ <http://hanumant.com/IndustrialDisputeAct.html>

curtail it through procedure laid down in section 22 and section 23 of the Industrial Dispute Act, 1947. The essential elements of section 22 of the Act are following,

No person employed in a public utility service⁵ shall go on strike in breach of contract—

- a) Without giving to the employer notice of strike of 6 weeks or,
- b) Within 14 days of giving such notice; or
- c) Before the expiry of the date of strike specified in any such notice as aforesaid; or
- d) During the pendency of any conciliation proceedings before a Conciliation Officer and 7 days after the conclusion of such proceedings.

A strike notice is valid only for 6 weeks i.e fresh notice has to be issued if the prior notice has expired. The workman cannot go to strike within the 14 days of the strike notice period.

In *Mineral Miner'S Union vs Kudremukh Iron Ore Co. Ltd*⁶, the Honourable Karnataka High court came with the question whether workmen are required to issue fresh notice though they have issued earlier but could not go into strike. The High Court held,

“On a harmonious construction of all the relevant provisions of the Act, it appears to me that a fresh notice under S. 22(1) in compliance with clauses (a), (b) and (c) of S. 22(1) and S. 24 is necessary if in a given case, by the date on which the failure of conciliation proceedings is intimated, six weeks period from the date of notice of strike issued earlier under S. 22(1) of the Act had expired. The reasons for which the conditions contained in clauses (a) (b) and (c) in S. 22 have been imposed are on the fact of it discernible. The reason is that in respect of a public utility service, the workmen cannot go on strike abruptly as it is sure to result in great inconvenience to the public and might result in irreparable loss and damage to the industry and to the State. For these reasons I hold that while the workmen in exercise of their right to go on strike, could go on strike after the expiry of seven days after the date of conclusion of conciliation in failure, if by that date, six weeks had expired from the date of notice of strike issued under S. 22(1), they must issue a fresh notice in terms of S. 22(1)(a) and (c) and S. 22(4) of the Act.”

Strike in an Industrial Establishment (Sec 23)

No workman employed in any industrial establishment shall go on strike in breach of contract—

- a) During pendency of conciliation proceedings before Board of conciliation and 7 days after the conclusion of such proceedings;

⁵ Sec 2(n) of the Industrial Dispute Act, 1947

⁶ 1989 (58) FLR 915, ILR 1985 KAR 2833, (1986) ILLJ 204 Kant

b) During the pendency of proceeding before a Labour court, Industrial Tribunal or National Tribunal and 2 months after the conclusion of such proceedings.

c) During the pendency of arbitration proceedings before an arbitrator and 2 months after the conclusion of such proceedings.

d) During any period of settlement or award.

Conclusion

Strike is an important tool in the hands of a trade union to enforce their demands. It is a method of collective bargaining. The Industrial Disputes Acts, 1947 provides the lawful procedure of initiating a strike and non-adherence of it will make the strike unlawful. Industrial peace is important for the development and growth of the country and hence this tool should be utilized only one other means of dispute resolution have exhausted. The Honourable Supreme Court has aptly decided in this issue and held,⁷

“While on the one hand it has to be remembered that strike is a legitimate and sometimes unavoidable weapon in the hands of labour it is equally important to remember that indiscriminate and hasty use of this weapon should not be encouraged. It will not be right for labour to think that for any kind of demand a strike can be commenced with impunity without exhausting reasonable avenues for peaceful achievement of their objects.”

Thus it can be concluded that a strike is an important weapon in the hands of workman however as it not only affects industrial growth but also the whole society hence it should be the scarcely used and should be the last weapon to resolve industrial dispute.

⁷ *The Management Of ... vs Its Workmen And Another*, 1960 AIR 902, 1960 SCR (3) 451