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**A CRITICAL STUDY OF HEALTH AND SAFETY PROVISIONS OF THE
FACTORIES ACT, 1948.**

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ABSTRACT:

Health and safety concerns are the need of the hour with respect to the workplace environment. In India, codified legislation for the same has come a long way with the enactment of the Factories Act, 1948 which entails the provisions for this issue. When it comes to health and safety issues, they can be said to be one of the major reasons for debate today in terms of their legislative strength and implementation, as worker well-being is paramount in the smooth functioning and progress of any industrial set-up. By means of this research paper, the researcher aims to analyze the health and safety provisions provided in this legislation and examine their scope and framework, looking into their effective implementation as well with the help of case laws.

INTRODUCTION:

The Factories Act, 1948 (later referred to as “Act”) has incorporated a number of health and safety provisions as contained in Chapters III & IV respectively of the Act. The same has been done in order to ensure the welfare, health and well-being of workers. In terms of health provisions, the features emphasized are cleanliness¹, removal of dust and fume², ventilation and temperature³, overcrowding⁴, drinking water⁵, the presence of spittoons⁶, sufficient accommodation of latrines⁷, disposal of wastes and effluents⁸, lighting⁹ and artificial humidification¹⁰. Further, the safety provisions include fencing of machinery¹¹, work on

¹ Section 11, The Factories Act, 1948, (Act 63 of 1948).

² Section 14, The Factories Act, 1948, (Act 63 of 1948).

³ Section 13, The Factories Act, 1948, (Act 63 of 1948).

⁴ Section 16, The Factories Act, 1948, (Act 63 of 1948).

⁵ Section 18, The Factories Act, 1948, (Act 63 of 1948).

⁶ Section 20, The Factories Act, 1948, (Act 63 of 1948).

⁷ Section 19, The Factories Act, 1948, (Act 63 of 1948).

⁸ Section 12, The Factories Act, 1948, (Act 63 of 1948).

⁹ Section 17, The Factories Act, 1948, (Act 63 of 1948).

¹⁰ Section 15, The Factories Act, 1948, (Act 63 of 1948).

¹¹ Section 21, The Factories Act, 1948, (Act 63 of 1948).

machinery in motion¹², employment of young persons in dangerous machines¹³, striking gear and on-off devices¹⁴, self-acting machines¹⁵, casing of new machinery¹⁶, prohibition of employment of women and children near cotton-opening machines¹⁷, appointment of safety officers¹⁸, maintenance of buildings¹⁹, precautions in case of fire²⁰ and so forth among others.

This research paper hence aims to analyze the provisions in each chapter, for their advantages, disadvantages and scope. Since health and safety is one of the most imperative aspects of a workplace environment, making sure that these particular provisions are codified to a level wherein a workplace is inclusive and comfortable, meeting the basic standards of care.

ANALYSIS OF HEALTH PROVISIONS (CHAPTER III):

With regard to the health provisions of the Act, there has been adequate regard paid to cleanliness²¹, with ample codification on the same, relating to regular washing and sweeping of floors, as well as painting and repainting at regular intervals. Various factories carry out processes, which call for the disposal of effluents²², the responsibility of which has been meted out to the State Governments. In terms of overcrowding²³, ventilation and temperatures,²⁴ the measures for the same have been specified in a clear manner. The supply of drinking water²⁵ has also been specified, with special provisions for the supply of water in hot weather. The construction of latrines²⁶ is another focus with separate enclosures for men and women. Hence, one can see that there are a number of such provisions designed to make sure a factory is a conducive workplace. However, the implementation is equally and

¹² Section 22, The Factories Act, 1948, (Act 63 of 1948).

¹³ Section 23, The Factories Act, 1948, (Act 63 of 1948).

¹⁴ Section 24, The Factories Act, 1948, (Act 63 of 1948).

¹⁵ Section 25, The Factories Act, 1948, (Act 63 of 1948).

¹⁶ Section 26, The Factories Act, 1948, (Act 63 of 1948).

¹⁷ Section 27, The Factories Act, 1948, (Act 63 of 1948).

¹⁸ Section 40B, The Factories Act, 1948, (Act 63 of 1948).

¹⁹ Section 40A, The Factories Act, 1948, (Act 63 of 1948).

²⁰ Section 38, The Factories Act, 1948. , (Act 63 of 1948).

²¹ *Supra* at 1.

²² *Supra* at 8.

²³ *Supra* at 4.

²⁴ *Supra* at 3.

²⁵ *Supra* at 5.

²⁶ *Supra* at 7.

absolutely essential in order to make sure that basic standards of a workplace are maintained and conditions are not inhumane.

It can be established that all these provisions have been enacted to ensure a comfortable and decent working space, as lack of resources like water or infrastructure for ventilation can make it extremely difficult for the smooth functioning of a factory. The workplace conditions are to be maintained as sanitary as well as organized in nature. These provisions are all self-explanatory in nature as they call for basic standards to be met in terms of an infrastructural and facility set-up. Their implementation is generally ensured according to Section 92 of the Factories Act, which is a broad inclusion meant to cover most contraventions as mentioned in the Act. This general provision while effective should probably be widened in scope to cover exact and specific situations, as the seriousness of adherence to certain provisions may be more as compared to others, as non-adherence to certain standards may adversely harm the workers present at the factory. Enactment of the same would be in the best interests of the employer as well as they will be liable for the exact malfeasance committed and there will not be any confusion or misinterpretation.

ANALYSIS OF SAFETY PROVISIONS (CHAPTER IV):

In general, health and safety provisions go hand in hand. Since factories usually operate with heavy machinery, there have to be ample precautions and restrictions so that injuries or fatalities are not caused at the liability of the owner. Chapter IV details an impressive amount of machines and their corresponding precautions to be taken such as striking gear and on-off devices,²⁷ self-acting machines²⁸, hoists²⁹, lifts, chains, ropes, tackles,³⁰ revolving machinery³¹ and the like. It is also possible that various factories have hazardous processes carried out such as dealing with toxic gases, noxious substances, and so forth. Although there is an entire chapter³² dealing specifically for the same, Chapter IV also has certain specifications dealing with explosive substances,³³ precautions in case of fire³⁴, and

²⁷ *Supra* at 14.

²⁸ *Supra* at 15.

²⁹ Section 28, The Factories Act, 1948, (Act 63 of 1948).

³⁰ Section 29, The Factories Act, 1948, (Act 63 of 1948).

³¹ Section 30, The Factories Act, 1948, (Act 63 of 1948).

³² Chapter IV-A, The Factories Act, 1948, (Act 63 of 1948).

³³ Section 37, The Factories Act, 1948, (Act 63 of 1948).

³⁴ *Supra* at 20.

precautions for eyes³⁵ and so on. Further, the contravention³⁶ of any of the abovementioned provisions which have resulted in an accident causing death or serious bodily injury, the fine shall not be less than Rs. 25,000 in the case of an accident causing death and Rs. 5,000 in case of serious bodily injury, being defined as which involves the permanent loss of the use of or permanent injury to any limb or sight or hearing or the fracture of any bone excluding the fracture (not being a fracture of more than one) bone or joint of any phalanges of the hand or foot.) In this case, the implementation has been seen to so that workers are not caused grave harm.

With the rapid advent of technology, various industrial processes are now carried out by a machine, which definitely increases the overall efficiency of the products being created as well as the quality of the same. However, they may act as hazardous towards the workers in the factories and may result in injury or even fatality in the case of any technical issue. Further, various factories may employ processes wherein chemicals are released or required which may be toxic and adversely affect workers involved in the process of the same. Hence, it is imperative that there are strict safeguards in situations wherein heavy machinery may malfunction as well as in the case of any toxic, hazardous or noxious substance produced during, before or after the industrial process being accounted for. It can be established that the safety provisions are elaborate and exhaustive in nature so that they can act as a preventive measure against any hazardous situation that may arise as a result of the nature of the work or the material present at the factory in the first place. The monetary fines provided for as contravening these provisions places a lot of responsibility, accountability and liability on the employer so that there is an answerable authority that acts as an example in the case of any issue.

LEGAL OVERVIEW:

In so far as the legal implementation of the provisions of this Act is concerned, it can be seen that the Courts have defined as well as emphasized on the rationale and significance of the above-mentioned provisions in order to ensure the safety of workers. The Courts have

³⁵ Section 35, The Factories Act, 1948, (Act 63 of 1948).

³⁶ Section 92, The Factories Act, 1948, (Act 63 of 1948).

focused on various technical aspects of non-adherence to said provisions, such as hazardous substances and so forth.

In the case of *Bayer (India) Limited and others v. State of Maharashtra*,³⁷ the judges focused on the adverse effects that can be caused by proximity and exposure to hazardous chemicals and substances, stating that: *“It is inherent that overriding considerations of Public health and danger to life must be issues to which top priority consideration is bestowed. Where there is a failure in this regard, the Court will have to step in, in the exercise of the inherent powers vested in them and strike down or prohibit any action that offends these basic tenets.”*

Also, the landmark case of *J.K. Industries Limited Etc. v. The Chief Inspector Of Factories*,³⁸ the history and significance of health and safety provisions with regards to amendments in the Factories Act was traced, with the Court observing the legal timeline for the same, providing the *raison d'être* as: *“The provisions of the 1934 Act (erstwhile Factories Act) regarding safety, health and welfare of workers were found to be inadequate and unsatisfactory. In view of large and growing industrial activity in the country, an overhauling of the factories law became necessary.”*

It further went on to consolidate the main purpose of the Act as: *“A piece of social welfare legislation enacted primarily with the object of protecting workmen employed in factories against industrial and occupational hazards. It seeks not only to ensure that workers would not be subjected to long hours of strain but also that employees should work in safe, healthy and sanitary conditions and that adequate precautions are taken for their welfare and safety. The stringent provisions relating to the obligations of the occupiers or managers with a view to protect workers and to secure to them employment in conditions conducive to their health and safety indicate the board purpose of the Act.”*

The same was propounded in a more emphasized manner in the case of *Bhikusa Kshatriya v. Union of India*,³⁹ wherein it was stated that the Act: *“Is enacted primarily with the object of*

³⁷ A.I.R. 1995 Bom 290 (India),

³⁸ 996 (9) TMI 503 (India).

³⁹ 1963 A.I.R. 1591 (India).

protecting workers employed in factories against industrial and occupational hazards. The Act requires that the workers should work in healthy and sanitary conditions and for that purpose, it provides that precautions should be taken for the safety of workers and prevention of accidents. The Factories Act undoubtedly imposes numerous restrictions upon the employers to secure to the workers' adequate safeguards for their health and physical well-being. But the imposition of such restrictions is not and cannot be regarded, in the context of the modern outlook on industrial relations, as unreasonable."

Further, in the case of **Lanco Anpara Power Ltd v. State Of Uttar Pradesh And Ors**,⁴⁰ it was said clearly that the "superior purpose behind the Act had to be kept in mind and which is for the welfare of the weaker section, i.e. workers of unorganized sector."

By means of analyzing these cases and more, one can easily justify that health and safety provisions have been highly regarded by the judicial system as imperative and their essence has been recognized. The primary purpose behind the enactment and amendment of these provisions has been identified as the welfare of workers, who have been given the highest preference and priority possibly compared to their employers, in order to protect and safeguard the rights and interests of the workers, and make sure that their contribution to the industrial process is privileged by way of their rights being recognized and upheld.

CONCLUSION:

Having made a cursory reading of all the provisions and their containment, it can be established that there has been quite an exhaustive coverage of situations and instances of provisions wherein health and safety measures may be required to be taken. Whether it is with regard to hazardous substances, heavy machinery or equipment that may cause injuries or accidents, almost every situation has been accounted for in terms of keeping workers' welfare and safety in mind. The Courts have further placed importance on the rationale behind the framing of these provisions in order to make sure that their spirit is not lost.

Mainly making the employers liable for contravention to the same assures responsibility and makes sure that there is an authority that adheres to rules and regulations. The amount of

⁴⁰ Lanco Anpara Power Ltd v. State Of Uttar Pradesh And Ors, Civil Appeal No. 6223 of 2016 (India).

penalties provided for is also not a negligible amount. In case the workplace environment is unsafe and hazardous, not only will the workers be mentally, emotionally and physically affected but also the output of production processes will be substandard at best because such environments are not conducive to good quality work. Hence, it is in the best interests of employers as well to adhere to the provisions. Coming to the legislation, perhaps more specific penalties could be imposed for contravening health-related provisions as mentioned in Chapter III of the Act, but apart from that the provisions are well-framed and thought out in elaborate detail, in order to ensure workers' health and safety to the maximum level. Hence, it can be concluded by means of this research paper that the Factories Act, 1948 is one of the most imperative legislation when it comes to maintaining and ensuring the health and safety standards of workers and the elaborate way it has been framed provides for various situations to be taken care of. The findings herein are that the Courts have placed strategic importance on the purpose behind formulating this Act and intend for the same to be upheld since social welfare is the cornerstone of the Indian industrial set-up and its progress.

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