

IN THE SUPREME COURT OF INDIA
[ORDER XXXVIII-B RULE 12(1)(d)]
CIVIL ORIGINAL JURISDICTION
[WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA BY WAY OF PUBLIC INTEREST
LITIGATION]
WRIT PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF:-

PANKAJ KUMAR YADAV

..Petitioner

VERSUS

UNION OF INDIA & ORS.

...Respondent

WITH

I. A. NO. _____ of 2020 :

Application seeking Exemption from
filing Official Translation

PAPER – BOOK

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Advocate For The Petitioner: NIRMAL KUMAR AMBASTHA

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PROFORMA FOR FIRST LISTING

SECTION PIL-(W)

The case pertains to (Please tick/check the correct box):

- ☐ Central Act: (Title) **Constitution of India, Factories Act, 1948, Industrial Disputes Act, 1947**
- ☐ Section: **Articles 38 – 47/Section 5/Section 36-B**
- ☐ Central Rule: (Title) **N.A.**
- ☐ Rule No (s): **N.A.**
- ☐ State Act (Title): **M.P. Industrial Relations Act, 1960**
- ☐ Section: **1(4)**
- ☐ State Rule: (Title) **N.A.**
- ☐ Rule No (s): **N.A.**
- ☐ Impugned Interim Order: **N. A.**
- ☐ Impugned final Order/Decree: **N.A.**
- ☐ High Court: **N.A.**
- ☐ Names of Judges: **N.A.**
- ☐ Tribunal/Authority: **N.A.**

1. Nature of matter: ☐ Criminal ☐ Civil
2. (a) Petitioner/appellant No.1: **PANKAJ KUMAR YADAV**
 (b) e-mail ID: pankajstory@rediffmail.com
 (c) Mobile phone number: **9431960875**
3. (a) Respondent No.1: **Union of India**
 (b) e-mail ID: **Not Known**
 (c) Mobile phone number: **Not Known**
4. (a) Main category classification: **08 – Letter Petition and PIL Matter**
 (b) Sub classification: **0812 – Others**
5. Not to be listed before: **N. A.**
6. (a) Similar disposed off matter with citation, if any, & Case Details: **No similar matter is pending.**

(b) Similar pending matter with Case Details: **No similar matter is pending.**

7. **Criminal Matters: No**

- a) Whether accused/convict has surrendered: **Yes** ☐ No ☐
- b) FIR No. **N.A.**
- c) Police Station: **N.A.**
- d) Sentence Awarded: **N. A.**
- e) Period of Sentence Undergone including Period of Detention/Custody Undergone: **N.A.**

8. **Land Acquisition Matters: N. A.**

- a) Date of Section 4 notification: **N. A.**
- b) Date of Section 6 notification: **N. A.**
- c) Date of Section 17 notification: **N. A.**

9. **Tax Matters:** State the tax effect: **N. A.**

10. **Special Category** (first petitioner/appellant only):

- ☐ Senior citizen > 65 years
- ☐ SC/ST
- ☐ Woman/child
- ☐ Disabled Legal Aid case
- ☐ In custody

11. Vehicle Number (in case of Motor Accident Claim matters): **N. A.**

12. Decided cases with citation: **No similar matter has been decided.**

Date: **14.05.2020**



AOR for petitioner(s)/appellants(s)
NIRMAL KUMAR AMBASTHA
Registration No. **2685**
nirmalambastha@gmail.com

SYNOPSIS

That the present Writ Petition as Public Interest Litigation is being filed by the Petitioner under Article 32 of the Constitution of India under the peculiar facts and circumstances of the present case praying for an order/direction in the nature of Writ of Mandamus quashing the various notifications issued by the respondents herein relaxing the provisions of Factories Act, 1948 (A Central Act) in exercise of power conferred under section 5 thereof to the detriment of the poor workmen on the premise of facilitating economic activities in various parts of the Country.

It is most humbly stated and submitted that several Indian States have granted exemptions to the industrial units from various provisions of the labour laws, such as section 5 of the Factories Act, section 36-B of the Industrial Disputes Act. These exemptions from the provisions of the pre-constitution statutes have been granted by way of executive orders by various State Governments to facilitate economic activities to the detriment of the workers and advantage of the employers in view of the global pandemic “COVID-19”.

It is most humbly submitted that section 5 of the Factories Act, 1948 provides as under:-

5. Power to exempt during public emergency

In any case of public emergency the State Government may, by notification in the Official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act [except section 67] for such period and subject to such conditions as it may think fit:

PROVIDED that no such notification shall be made for a period exceeding three months at a time.

Explanation: For the purposes of this section "public emergency" means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

It is evident from the above provision that this power to exempt will be available to the State Government only in case of such "Public Emergency" as explained in the said section itself and not in any other circumstance. However, various State Governments exercised the powers under aforesaid section 5 of the Factories Act, 1948 by equating the current Pandemic "COVID-19" situation as a "Public Emergency", despite absence of any exception in the aforesaid pre-constitution statutory provision.

It is most humbly stated and submitted that various statutes constituting "Labour Laws" are benevolent legislations intended to protect the "Oppressed Class" by the "Oppressor Class". However, in the present circumstances, the State is depriving the "Oppressed Class" from the welfare measures, which are already available to them for facilitating the

“Oppressor Class”, that too when the former is worst affected by the global Pandemic “COVID-19” having lost their livelihood and are compelled to lead their lives at the mercy of none but the Almighty God.

It is no doubt true that presently, the entire world is passing through the most difficult times, however even under such a situation, a Welfare State cannot be expected to force its least fortunate and most oppressed citizens into further miseries on the pretext of facilitating economic activities/development by taking away their existing rights to their detriment and for the advantage of more fortunate citizens.

Various State Governments have proceeded to exempt numerous industrial units from the provisions of various labour welfare Statutes only in view of the current pandemic situation, which includes increase in daily and weekly working hours, deprivation of right of workmen to approach Courts of law, routine inspection of industrial units by the Factories Inspectors, provisions regarding various basic human facilities to the workmen at the workplace, etc.

It is submitted that it is well known fact today that lakhs of workers have lost their livelihood during the lockdown imposed by the respondent No. 1 for controlling the pandemic situation and they are forced to lead a life in miseries of all sorts. Under such circumstances, the withdrawal of welfare measures from the labourers/workmen as a whole would lead to

their further miseries and exploitation at the hands of their employers, who are being exempted from the statutory liabilities to look after the welfare of their employees.

It is humbly prayed that entire world is stopped, so are we. But, the situation of a workman/labourer cannot be equated with his employer, who is always in better position to maintain themselves for considerable period without earning. However, it is the workmen/labourers, who needs to be cared for at present and employment opportunities, so that they may live with dignity without begging for food and shelter.

On the other hand, the employers are making all the attempts to avoid their liabilities towards their employees, which is apparent from the suggestions made by them to Hon'ble Union Minister for Labour and Employment in meeting dated 08.05.2020, where they suggest for exemption from all the labour laws for a period of 2 – 3 years, without assigning any reason for seeking the same and the State Governments are providing them such exemptions, thereby exposing the poor workmen to further exploitation and miseries.

It is worth mentioning that the laws sought to be suspended by the respondent States were enacted after independence, but before the enactment of the Constitution of India, which shows the importance given by our founding fathers to these legislations. The Constitution also enshrines various provisions under

the Part IV (Directive Principles of State Policy), which has been held to be a guiding factor for governance on numerous occasions.

However, State is at present taking such decisions, which are unilaterally in favour of the “Oppressor” giving them a tool to further exploit the “Oppressed”, who needs urgent protection at this hour of misfortune.

Hence, the present Writ Petition is being filed.

LIST OF DATES AND EVENTS

- | | |
|--------------------------|--|
| January – February, 2020 | Entire world was grasped in the clutches of deadly virus named “Corona Virus”, which started infecting people around the world and proved to be so fatal that even the Countries having best medical facilities fell on their knees. The reach of the aforesaid virus spread to such an extent beyond territorial boundaries of different Countries that it turned into a Pandemic |
| March, 2020 | The aforesaid Pandemic entered into India also and several people were infected by it and a few died also. |
| 24.03.2020 | Since nothing was known about this virus, the Union Government decided to lockdown the entire country brining all the activities to halt and directed its citizens to stay home. |

As a result, all the establishments and activities, government as well as private, were closed for three weeks from 24.03.2020, which caused sufferings to all of us, but the poor labourers, who earn their meager livelihood daily are the worst suffers. They lost their employment, shelter and savings during this period and a situation arose, when they were compelled to raise their voices. Government as well as non-government entities tried and helped them, but it was too meager to even provide them a dignified life and many amongst them got infected also with the deadly virus.

14.04.2020 The lockdown was extended for further period of 19 days till 03.05.2020. However, the government allowed certain industrial and commercial activities to be carried out.

17.04.2020 Respondent No. 2 granted certain exemption by exercising powers conferred under section 5 of the Factories Act, 1948 and extended the maximum working hours from 8 to 12 hours per day and from 48 to 72 hours per week. This exemption enabled the industries to hire only those workers, who are willing to work for 12 hours per day instead of 8 hours and that too without liability to pay over-time wages for the

extra four hours.

- 22.04.2020 Respondent No. 4 granted certain exemption by exercising powers conferred under section 5 of the Factories Act, 1948 and extended the maximum working hours from 8 to 12 hours per day and from 48 to 72 hours per week. This exemption enabled the industries to hire only those workers, who are willing to work for 12 hours per day instead of 8 hours and that too without liability to pay over-time wages for the extra four hours.
- 05.05.2020 Vide notification No. No. 954-02-2020-A-16, the respondent No. 4 exempted the non-hazardous category factory employing upto 50 workers from routine inspection by Factory Inspector and allowed them to submit Third Party Certification regarding compliance of various provisions of Factories Act.
- 05.05.2020 Vide notification No. No. 955-02-2020-A-16, the respondent No. 4 amended Rule 18(B) of Madhya Pradesh Factories Rules, 1962 providing for inspection of Factories by third parties authorized by the Labour Commissioner.
- 05.05.2020 Vide notification No. No. 956-02-2020-A-16, the respondent No. 4 exempted new

industries which will be registered in the Factories Act, 1948 and start production for the first time in next 1000 days after the publication of notification from the provisions of this Act, except the provision of Chapter V-A and Section 25-N, 25-O, 25-P, 25-Q and 25-R of Chapter V-B of the Industrial Disputes Act, 1947. This exemption deprives the workmen from raising any dispute before the Labour Court besides depriving from other beneficial welfare measures provided by the statute.

05.05.2020 Vide notification No. No. 957-02-2020-A-16, the respondent No. 4 exempted certain industries from Madhya Pradesh Industrial Relations Act, 1960 (No. 27 of 1960), again depriving the workmen from raising any dispute before the Labour Court.

05.05.2020 Vide notification No. No. 958-02-2020-A-16, the respondent No. 4 exempted all Factories registered under the Factories Act, 1948 in the State of Madhya Pradesh from all the provisions the Factories Act, 1948 and Madhya Pradesh Factory Rules, 1962 except section 6, 7, 8 and section 21 to 41-H under Chapter – 4 about safety and section 59, section 65, section 67, section 79, section 88, section 112 and rules made thereunder

for three months in exercise of powers conferred by section 5 of the Factories Act, 1948.

- 06.05.2020 The Union Minister of State (I/C) for Labour and Employment held a Webinar with the Central Trade Union Organizations (CTUOs) to discuss the emergent situation arising out of COVID-19 pandemic and to minimize its impact on the workers and on the economy. These issues include (i) Protection of the interest of Workers and Migrant Workers in view of COVID-19, (ii) Measures to generate Employment, (iii) Measures to be adopted for restarting economic activities and (iv) Measures to improve situation of MSME to enable them to discharge their liabilities under Labour Laws. Some suggestions were submitted by the CTOUs.
- 08.05.2020 The Union Minister of State (I/C) for Labour and Employment held a Webinar with Employers' Organizations to discuss the emergent situation arising out of COVID-19 pandemic and to minimize its impact on the workers and on the economy. These issues include (i) Protection of the interest of Workers and Migrant Workers in view of COVID-19, (ii) Measures to generate Employment, (iii) Measures to be adopted for restarting economic activities and (iv) Measures to improve situation of MSME to enable them to

discharge their liabilities under Labour Laws. Some suggestions were submitted by the Employers' Organizations.

08.05.2020 Respondent No. 3 granted certain exemption by exercising powers conferred under section 5 of the Factories Act, 1948 and extended the maximum working hours from 8 to 12 hours per day and from 48 to 72 hours per week on the ground that internal disturbance of the category of Public Emergency has arisen in the entire country including the State of Uttar Pradesh. This exemption enabled the industries to hire only those workers, who are willing to work for 12 hours per day instead of 8 hours and that too without liability to pay over-time wages for the extra four hours. The Respondent No. 3

14.05.2020 The Writ Petition is being filed.

IN THE SUPREME COURT OF INDIA
[ORDER XXXVIII-B RULE 12(1)(d)]
CIVIL ORIGINAL JURISDICTION
[WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA BY WAY OF PUBLIC
INTEREST LITIGATION]
WRIT PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF:

PANKAJ KUMAR YADAV,
S/O SRI RAJ KISHORE PD. YADAV,
R/O Gayatri Mandir Road,
Sudna Medini Nagar,
District – Palamau 822 101

JHARKHAND

.....Petitioner

VERSUS

1. **UNION OF INDIA,**
Through The Secretary,
Ministry of Labour and Employment,
Government of India,
Shram Shakti Bhawan, Rafi Marg
NEW DELHI – 110 001
2. **STATE OF GUJARAT,**
THROUGH Secretary,
Labour and Employment Department,
Government of Gujarat,
Sachivalaya, Gandhinagar
GUJARAT

3. **STATE OF UTTAR PRADESH,**
THROUGH Principal Secretary,
Labour Department,
Government of Uttar Pradesh,
Baapu Bhawan, Secretariat,
Lucknow, **UTTAR PRADESH**
4. **STATE OF MADHYA PRADESH,**
THROUGH Secretary,
Labour Department, Mantralaya,
Vallabh Bhawan, Bhopal
MADHYA PRADESH

All respondents are **Contesting Respondents**

WRIT PETITION BY WAY OF PUBLIC INTEREST
LITIGATION PETITION UNDER ARTICLE 32 OF
THE CONSTITUTION OF INDIA PRAYING FOR
APPROPRIATE DIRECTIONS TO THE
GOVERNMENTS OF VARIOUS STATES
RESTRAINING THEM FROM GRANTING
VARIOUS EXEMPTION UNDER DIFFERENT
LEGISLATIONS REGARDING LABOUR LAWS
EXTENDING THE MAXIMUM WORKING DAILY/
WEEKLY HOURS, DEPRIVATION OF RIGHTS TO
APPROACH COURTS OF LAW IN CASE OF
INDUSTRIAL DISPUTES, EXEMPTION TO
FACTORIES FROM INSPECTION BY THE
DEPARTMENTAL INSPECTORS AND VARIOUS
PROVISIONS ENACTED FOR WELFARE OF THE
WORKMEN

To,

THE HONBLE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA

THE HUMBLE PETITION ON BEHLAF
OF THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHEWETH:

1. That the present Writ Petition as Public Interest Litigation is being filed by the Petitioner under Article 32 of the Constitution of India under the peculiar facts and circumstances of the present case praying for an order/direction in the nature of Writ of Mandamus quashing the various notifications issued by the respondents herein relaxing the provisions of Factories Act, 1948 (A Central Act) in exercise of power conferred under section 5 thereof to the detriment of the poor workmen on the premise of facilitating economic activities in various parts of the Country.

2. **PROFILE OF THE PETITIONER:**

That the Petitioner is a citizen of the India normally residing in the State of Jharkhand and working as a free lance journalist, who works for the welfare and social upliftment of the poor fellow citizens. He has been continuously working towards welfare of the society in various ways and on various platforms. The petitioner is the secretary of a registered society, "JANSABHA", a non – profit organization, having its office at K-46, Kailash

Colony, New Delhi – 110 048. The petitioner has been working as a Journalist since last more than 10 years and has worked in India Inside monthly magazine and TEHELKA news portal and the petitioner Has been engaged in Community Development and Social Welfare Activities for labourers and tribal in State of Jharkhand and Bihar and is involved in creating social awareness amongst the masses.

1. Name Pankaj Kumar Yadav
2. Father's Name Shri Raj Kishore Pd. Yadav
3. Email ID pankajstory@redifmail.com
4. Phone No. 9431960875
5. Proof of Identity True copies of PAN, Aadhar Card
6. Permanent Residence R/O Gayatri Mandir Road,
Sudna Medini Nagar,
District – Palamau 822 101
JHARKHAND
7. Aadhar No. 7833 8245 1623
8. PAN AJGPY5029C
9. Annual Income About 4.5 lakhs

3. **PROFILE OF THE RESPONDENTS:**

The respondents herein are the ministries/departments of the Government of India Government of Indian States responsible for proposing the changes/amendments in the existing labour laws of the Country.

4. **QUESTIONS OF LAW:-**

The petitioner seeks to rays following questions of law of general importance by way of this Writ Petition:-

- A. WHETHER powers conferred by section 5 of the Factories Act, 1948 is available to the State Government for the purpose of granting exemptions from the provisions of the said Act for a purpose other than the purpose stated in the aforesaid section 5 itself?
- B. WHETHER a social welfare legislation like various labour laws can be amended or operation of the same may be suspended by the State by way of Ordinance/Notification on the premise of facilitating economic growth placing the entire adverse effects of such amendment/ suspension on the poor labourers only?
- C. WHETHER the poorest of poor labourers, who earn their livelihood by working for someone else, can be exclusively burdened to bear the detrimental effects of economic growth of the economically ruined country in view of the Corona virus pandemic being faced by the entire world?
- D. WHETHER the State's action in exempting the industries from various Labour Laws related to the welfare of the workers for increasing the working hours to one and half times and deprivation of fundamental rights like right to approach Courts of law and other welfare

provisions without following due process of law does not amount to manifest arbitrariness having no connection to the stated object and purpose of the Parent Act (Labour laws) and violative of Articles 14 and 21 of the Constitution of India?

E. WHETHER object of economic growth can be placed on pedestal above the welfare of the workers in a welfare State like ours Nation as is being sought to be done by suspending the statutory welfare provisions by way of executive order?

5. **THE FACTS LEADING TO THE INSTANT PETITION ARE AS UNDER:**

- a) Since the month of February, 2020, the Nation is facing Corona pandemic situation and the entire nation is under lockdown by the Order of the Government of India since 24.03.2020. In the course of this lockdown, numerous unfortunate incidents have occurred, amongst which the return of migrant labourers to their native place from their place of employment is a very unfortunate and highly debated occurrence. It is worth mentioning here that these poor migrant labourers decided to return to their natives due to loss of employment and earnings and uncertainty of future employment and earnings.
- b) The above lockdown situation has brought the nation to a standstill and all the activities including economic activities have come to a halt

thereby causing stagnation or perhaps detriment to the economic health of the nation.

- c) Our forefathers enacted various legislations to protect the interests of the poor workers, who work in various industrial establishments and make useful contribution in the economic development of the nation. These legislation are even older than our Constitution, which provides for economic and social welfare of every citizen, howsoever lowly placed in the society, in its Directive Principles of State Policies such as Articles, 38, 39, 42, 43, 43-A and 47. These principles were the guiding factors for our forefathers in enacting the beneficial legislations for the protection of health and dignified employment of poor workers and to prohibit their exploitation by their employers.
- d) One such legislation is the Factories Act, 1948 (Act No. 63 of 1948 enacted on 23.09.1948), which was enforced in the territory of India with effect from 01.01.1949. Sections 51, 54, 55 and 56 of this Act provides for the working hours of the workers and Section 5 thereof empowers the State Government from exempting any factory or class/description of the factories from all or any provision of this Act (Except section 67) for a period of three months at once during public emergencies.

- e) Section 5 of the Factories Act, 1948 read as under –

5. Power to exempt during public emergency

In any case of public emergency the State Government may, by notification in the Official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act [except section 67] for such period and subject to such conditions as it may think fit:

PROVIDED that no such notification shall be made for a period exceeding three months at a time.

Explanation: For the purposes of this section "public emergency" means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

- f) It is evident from the above definition that the State Government has power to exempt a factory from the provisions of this Act only in case of public emergencies, which are classified as threat of security of India and any territory thereof by war, external aggression or internal disturbance.

- g) Section 51 of the Factories Act, 1948 reads as under –

51. Weekly hours

No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

- h) Section 54 of the Factories Act, 1948 reads as under –

54. Daily hours

Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day:

PROVIDED that, subject to the previous approval of the Chief Inspector, the daily maximum specified in this section may be exceeded in order to facilitate the change of shifts.

- i) Section 55 of the Factories Act, 1948 reads as under –

55. Intervals for rest

(1) The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt any factory from the provisions of sub-section (1) so however that the total number of hours worked by a worker without an interval does not exceed six.

- j) Section 56 of the Factories Act, 1948 reads as under –

56. Spreadover

The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under

section 55, they shall not spread over more than ten and a half hours in any day:

PROVIDED that the Chief Inspector may, for reasons to be specified in writing, increase the spread over up to twelve hours.

- k) Section 59 of the Factories Act, 1948 reads as under –

59. Extra wages for overtime

- (1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.
- (2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.
- (3) Where any workers in a factory are paid on a piece-rate basis, the time rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done, and such time

rates shall be deemed to be the ordinary rates of wages of those workers:

PROVIDED that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earning of the worker for the days on which he actually worked in the week in which the overtime work was done.

Explanation: For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.

- (4) The cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of food grains and other articles admissible to a standard family.

Explanation 1 : "Standard family" means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2: "Adult consumption unit" means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of .8 and .6 respectively of one adult consumption unit.

- (5) The State Government may make rules prescribing-
- (a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other articles shall be computed; and
 - (B) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

- I) During the period of national lockdown commencing from 24.03.2020, all the factories were not permitted by the government to carry on their operation, which had twofold effect, one on the owners of such factories and the production by such factories and other on the earnings of the workers. Facing the situation of non-production, various State government resorted to exercise the extra-ordinary powers conferred on them under section 5 of the Factories Act, 1948 to be exercised exclusively in cases of "public

emergency", which means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

- m) That during the second phase of national lockdown, the Government of India decided to permit certain industrial activities for the dual purpose of enabling the production of essential as well as non-essential goods and secondly to enable the workers to earn their livelihood in these difficult times. On the requests of industrialists, various State Governments agreed to accord relaxations to these industries from the rigors of Labour Laws and therefore, these State Governments granted such relaxations, which are neither lawful nor in the interest of workers. It is most humbly submitted that all these State Governments exercised powers under section 5 of the Factories Act despite absence of any 'Public Emergency' as defined in the said provision.
- n) By exercise of powers under section 5 of the Factories Act, the Labour and Employment Department, Government of Gujarat issued Notification No. GHR/2020/56/FAC/142020/346/M3 dated 17.04.2020, whereby it exempted all the factories registered under the Factories Act, 1948 from the provisions under section 51, 54, 55 and 56 of the Act for the period from 20.04.2020 to 19.07.2020 on the following condition –
 - (1) No adult worker shall be allowed or required to work in a factory for more than twelve

hours in any day and seventy two hours in any week.

- (2) The period of works of adult workers in a factory each day shall be so fixed that no period shall exceed six hours and that no worker shall work for more than six hours before he had an interval for rest of at least half an hour.
- (3) No female worker shall be allowed or required to work in factory between 7.00 PM to 6.00 AM.
- (4) Wages shall be in a proportion of the existing wages. (e.g. If wages for eight hours are 80 rupees, then proportionate wages for twelve hours will be 120 rupees).

A true copy of the Notification No. GHR/2020/56/FAC/142020/346/M3 dated 17.04.2020 issued by the Labour and Employment Department, Government of Gujarat is being annexed herewith and marked as **Annexure P-1. [Pages54 – 56]**

- o) Similarly, by exercise of powers under section 5 of the Factories Act, the Labour Department, Government of Madhya Pradesh issued Notification No. 247-2020-A-Sixteen dated 22.04.2020, whereby it exempted all the factories registered under the Factories Act, 1948 from the provisions relating to the weekly hours, daily hours, Intervals for Rest, etc. of adult workers under clause (iii) and

(iv) of sub-section (3)(a) of Section 65 of the Act for the period of three months from the date of publication of the notice in the State Gazette on the following condition –

- (1) No adult worker shall be allowed or required to work in a factory for more than twelve hours in any day and seventy two hours in any week.
- (2) The period of works of adult workers in a factory each day shall be fixed that no period exceed six hours and that no worker shall work for more than six hours before he had an interval for rest of at least 30 minutes.
- (3) Over time wages shall be paid as provided under section 59 of the Factories Act, 1948.

A true copy of the Gazette Notification No. 247-2020-A-Sixteen dated 22.04.2020 issued by the Labour Department, Government of Madhya Pradesh is being annexed herewith and marked as **Annexure P-2. [Pages 57 – 58]**

- p) That on 05.05.2020, Labour Department, Government of Madhya Pradesh issued Notification No. 954-02-2020-A-16, vide which it notified to recognize the Third Party Certification for non-hazardous category factories employing upto 50 workers as per the Business Reform Action Plan, 2016 under the Industrial Policy and Promotion, Ministry of Commerce and Industries, Government

of India. Such Factories were exempted from routine inspection process by the Labour Inspectors thereby exposing the poor worker to exploitation at the hands of their employers. The question which arises here for consideration is that if such factories are required to submit Third Party Certifications Report, then what is the occasion for exempting them from inspection of the Departmental Inspectors, who are employed for this purpose alone. A true copy of the Gazette Notification No. 954-02-2020-A-16 dated 05.05.2020 issued by the Labour Department, Government of Madhya Pradesh is being annexed herewith and marked as **Annexure P-3. [Pages 59 – 60]**

- q) That on 05.05.2020, the Labour Department, Government of Madhya Pradesh issued Notification No. 955-02-2020-A-16, vide which it amended the Rule 18-B of the Madhya Pradesh Factory Rules, 1962 making provisions for authorizing private individuals and agencies to conduct the inspection of factories. A true copy of the Gazette Notification No. 955-02-2020-A-16 dated 05.05.2020 issued by the Labour Department, Government of Madhya Pradesh is being annexed herewith and marked as **Annexure P-4. [Page 61]**
- r) That on 05.05.2020, Labour Department, Government of Madhya Pradesh issued Notification No. 956-02-2020-A-16, vide which the State Government exempted the industries,

which will be established and start production with the next 1000 days, from the purview of provisions of Industrial Disputes Act, 1947 except the provisions under Chapter V-A and sections 25-N, 25-O, 25-P, 25-Q and 25-R thereof on the condition that such industries provide for investigation and settlement of industrial disputes of the workmen employed by them. This exemption deprived the workmen of such industries from their various legal rights including the right to approach the Court of Law. A true copy of the Gazette Notification No. 956-02-2020-A-16 dated 05.05.2020 issued by the Labour Department, Government of Madhya Pradesh is being annexed herewith and marked as **Annexure P-5. [Page 62]**

- s) That on 05.05.2020, the Labour Department, Government of Madhya Pradesh issued Notification No. 957-02-2020-A-16, vide which it exempted 11 industries from the provisions of the Madhya Pradesh Industrial Relations Act, 1960, which is a legislation to regulate the relations of employers and employees in certain matters, to make provision for settlement of industrial disputes and to provide for certain other matters connected therewith. A true copy of the Gazette Notification No. 957-02-2020-A-16 dated 05.05.2020 issued by the Labour Department, Government of Madhya Pradesh is being annexed herewith and marked as **Annexure P-6. [Pages 63 – 64]**
- t) That vide Notification No. 958-02-2020-A-16 dated 05.05.2020, the Labour Department, Government of Madhya Pradesh made a statement

that the State Government has prepared an action plan for 1000 days and decided to create more economic activities and employment opportunities in view of the economic situation arising of pandemic “COVID-19” by exempting industries from certain provisions of Factories Act, 1948 for the next 100 days. However, by exercising powers under section 5 of the Factories Act, the Government of Madhya Pradesh exempted all the factories registered under the Act from all the provisions thereof, except sections 6, 7, 8, 21 to 41H, 59, 65, 67, 79, 88 and 112 and rules made thereunder for three months from the date of publication. A true copy of the Gazette Notification No. 958-02-2020-A-16 dated 05.05.2020 issued by the Labour Department, Government of Madhya Pradesh is being annexed herewith and marked as **Annexure P-7. [Page 65]**

- u) That on 06.05.2020, Union Minister of State (I/C) for Labour and Employment held a Webinar with Central Trade Union Organizations (CTUOs) to discuss the emergent situation arising out of COVID-19 pandemic and to minimize its impact on the workers and on the economy, including the issues of (i) Protection of the interest of Workers and Migrant Workers in view of COVID-19, (ii) Measures to generate Employment, (iii) Measures to be adopted for restarting economic activities and (iv) Measures to improve situation of MSME to enable them to discharge their liabilities under Labour Laws. The CTUOs gave several suggestions, which include providing subsidy to small and tiny industries in wage component so

that these employers are able to pay full wages to all workers for the lockdown period, etc, working hours to the workers should not be increased during this time and working hours to the workers should not be increased during this time. A Press release was issued by the Ministry in this respect. A true copy of the Press release dated 06.05.2020 issued by the Press Information Bureau, Government of India on behalf of Ministry of Labour and Employment is being annexed herewith and marked as **Annexure P-8. [Pages 66 – 68]**

- v) Thereafter, Union Minister of State (I/C) for Labour and Employment held a Webinar with Employers' Organizations on various issues including (i) Protection of the interest of Workers and Migrant Workers in view of COVID-19, (ii) Measures to generate Employment, (iii) Measures to be adopted for restarting economic activities and (iv) Measures to improve situation of MSME to enable them to discharge their liabilities under Labour Laws. The representatives of the Employers' Organizations also gave several suggestions, which included relaxation of various welfare legislations for labours allowing them to treat the lockdown period as "lay-off", adjusting the wages paid to workers under CSR funds, to suspend laws related to minimum wages, bonus, statutory dues, etc. for 2 – 3 years, to increase the working hours from 8 to 12 hours per day, etc. A Press release was issued by the Ministry in this respect. A true copy of the Press release dated 08.05.2020 issued by the Press Information

Bureau, Government of India on behalf of Ministry of Labour and Employment is being annexed herewith and marked as **Annexure P-9. [Pages 69 – 72]**

w) Similarly, by exercise of powers under section 5 of the Factories Act, the Labour Department Section – 3, Government of Uttar Pradesh issued Notification No. 13/2020/502/36-03-2020-30(S)/2020TC dated 08.05.2020, whereby it exempted all the factories registered under the Factories Act, 1948 from the provisions under section 51, 54, 55, 56 and 59 of the Act for the period from 20.04.2020 to 19.07.2020 on the following condition –

- (1) No adult worker shall be allowed or required to work in a factory for more than twelve hours in any day and seventy two hours in any week.
- (2) The period of works of adult workers in a factory each day shall be so fixed that no period shall exceed six hours and that no worker shall work for more than six hours before he had an interval for rest of at least half an hour.
- (3) Wages shall be in a proportion of the existing wages. (e.g. If wages for eight hours are 80 rupees, then proportionate wages for twelve hours will be 120 rupees).

A true translated copy of the Notification No. 13/2020/502/36-03-2020-30(S)/2020TC dated 08.05.2020 issued by the Labour Department

Section – 3, Government of Uttar Pradesh is being annexed herewith and marked as **Annexure P-10.**
[Pages 73 – 74]

It is relevant to mention here that the notification mentions the current Pandemic situation to be an internal disturbance of the category of public emergency in order to justify the exercise of powers under section 5 of the Factories Act, 1948, while the said section categorically explains the public emergencies in case of which this power can be exercised.

- x) That it is most humbly submitted that these exemptions granted by the various State Government is illegal and without any authority of law, besides being detrimental to the employment and health of the poor workmen, who may be employed in such industries.
- y) It is submitted that section 5 of the Factories Act permit State Government to grant such exemptions only In the specified circumstances of “Public emergency”, which is explained in the said provision itself to mean a grave emergency, whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance. The current Pandemic situation does not qualify to be a Public emergency as explained under section 5 of the Factories Act, thereby rendering the exemptions granted by the respondents illegal.

- z) That the petitioner has come to know through various Newspaper reports that other states like Punjab, Rajasthan, Himachal Pradesh have also granted similar exemptions to the industries operating within their territorial jurisdiction by exercising the same powers under section 5 of Factories Act, which is not available in the present circumstances. Further, various laws related to workmen-employer relationships are welfare legislations enacted with an ostensible object to protect the poor workmen from exploitation at the hands of their employee and grant of such exemptions to the industries has no direct relationship whatsoever with the welfare of the workmen nor they conform to the object of such benevolent legislations, which render such exemption order issued by the State Governments manifestly arbitrary having no relationship with the object of the parent enactment.

6. **Manner in which the petitioner would be affected:**

The Petitioner is a public spirited citizen of India and is a working freelance Journalist. Although the petitioner is neither employed in any such factory nor he intends to take up any such employment for himself, however during course of his profession, he has toured various parts of the Country and has interacted with a large of such citizens, who somehow earn their livelihood to maintain themselves and their families. When the petitioner came to know about grant of such exemptions by various State Government to various

industries through news reports, he gathered information and documents in this respect from various sources including governments' official websites. On studying the materials so gathered, the petitioner felt that the action of the respondents are intended to deprive the poor labourers/workers of their valuable legal rights, which were available to them before this pandemic situation. It impressed upon the petitioner that entire burden of economic development in this pandemic situation is being placed on the shoulders of poor labourers, almost all of whom will not think of approaching the Court to seek justice against this unfair treatment, especially during this pandemic situation, when their first priority would be win bread for themselves and their families. Therefore, the petitioner is constrained to invoke the extra-ordinary jurisdiction of this Hon'ble Court in representative capacity praying to the Hon'ble Court for enforcement of the legal rights of the poor deprived citizens by issuing necessary directions.

7. That the Petitioner has not filed any such or similar Petition before this Hon'ble Court or any High Court praying for similar relief.
8. That the petitioner is aware of the consequences of filing a frivolous petition before this Hon'ble Court and is ready to abide by the Orders passed by this Hon'ble Court and bear the cost, if imposed, and has the means to bear the same.

10. **GROUND:-**

- A.** BECAUSE the action of the various State Governments (respondent Nos. 2 to 4) in granting exemptions to the factories registered under Factories Act, 1948 in purported exercise of powers conferred under section 5 of the said Act in absence of the “Public Emergency” as explained under the said section is illegal for denying equal protection of law to the poor workmen without following the due process established by law and thereby violates the provisions of Articles 14 and 21 of the Constitution of India and thus, liable to be quashed.
- B.** BECAUSE powers conferred by section 5 of the Factories Act, 1948 is NOT available to the State Government for the purpose of granting exemptions from the provisions of the said Act for a purpose other than the purpose stated in the aforesaid section 5 itself.
- C.** BECAUSE a social welfare legislation like various labour laws cannot be amended or operation of the same may be suspended by the State by way of Ordinance/Notification on the premise of facilitating economic growth placing the entire adverse effects of such amendment/suspension on the poor labourers only.
- D.** BECAUSE the poorest of poor labourers, who earn their livelihood by working for someone else, cannot be exclusively burdened to bear the detrimental effects of economic growth of the economically ruined country in view of the

Corona virus pandemic being faced by the entire world.

- E.** BECAUSE the State's action in exempting the industries from various Labour Laws related to the welfare of the workers for increasing the working hours to one and half times and deprivation of fundamental rights like right to approach Courts of law and other welfare provisions without following due process of law amounts to manifest arbitrariness having no connection to the stated object and purpose of the Parent Act (Labour laws) and violative of Articles 14 and 21 of the Constitution of India.
- F.** BECAUSE object of economic growth cannot be placed on pedestal above the welfare of the workers in a welfare State like ours Nation as is being sought to be done by suspending the statutory welfare provisions by way of executive order.
- G.** BECAUSE the proposed exemptions in various Labour Laws by the respondent States amounts to invasion on the rights of the citizens (poor labourers) under guise of exemption for economic development granted to their employers, which clearly defeats the ostensible object of the benevolent legislations enacted for comfort, welfare and safety of the poor workmen and therefore, same are arbitrary and unconstitutional and deserves to be quashed.
- H.** BECAUSE the respondent Nos. 2 to 4 have exposed the poor labourers/workers to the exploitation

at the hands of their employers by granting illegal exemptions to such employers without considering the physical, mental and economic welfare of the poor workmen, which are all intended to defeat the very intention of our forefathers, who took extreme care in enacting benevolent constitutional provisions as well as statutes for the welfare of the poor and downtrodden brethren of ours.

- I. BECAUSE the respondent States have granted various exemptions without application of mind and without considering the necessity to provide employment to maximum number of people in this pandemic situation, which is evident from the decision to increase the number of daily and weekly working hours of the workers. If an industry is operated 24 hours a day, then an 8 hours daily working will provide employment to more people without any detriment to the industry, while increase in daily and weekly working hours will cause decrease in number of employed worker on the one hand and will have adverse effect on the health of poor workers on the other hand, which is definitely unjustified.
- J. BECAUSE the action of respondent No. 4 State of Madhya Pradesh in exempting the factories registered under the Factories Act, 1948 from all the provisions, except a few, of the said Act with an action plan to grant such exemption for a period of 1000 days i.e. over three years, that too in absence of the condition precedent for exercise of powers under section 5 of the said Act, is grossly illegal and against the interests of the

poor labourers, who have extreme need of employment and care.

- K.** BECAUSE the increase of daily working hours for the workers from 8 hours daily to 12 hours daily by the respondent No. 2 State of Gujarat without making provision for payment of wages at the rate prescribed under section 59 of the Factories Act without exempting the industries from the provisions of section 59 of the said Act is illegal and unjustified.
- L.** BECAUSE the action of the respondent No. 4 State of Madhya Pradesh in recognizing the Third Party Certification for non-hazardous factories employing upto 50 workers and exempting such industries from routine inspection by the Departmental Inspectors is illogical, illegal, unjustified and against the interests of the poor workers, who shall be exposed to exploitation at the hands of their employers in absence of routine inspection by Government Officers.
- M.** BECAUSE the insertion of Rule 18-B in Madhya Pradesh Factory Rules, 1962 providing for authorization by the Labour Commissioner to agency or person to conduct inspection of factories for ensuring compliance of the provisions of the Factories Act is illegal as section 8(1) of the Factories Act enables the State Government to appoint a person as Inspector. The State Government already has such appointed Inspector at its disposal and therefore, allowing a private agency or individual to perform those government's duties, for which the Government has personnel at its disposal, is not only

illegal, but also has the effect of rendering a large number of Inspectors employed with the department useless and redundant.

- N. BECAUSE the exemption granted by the State of Madhya Pradesh to the industries from the provisions of Industrial Disputes Act, 1947 and Madhya Pradesh Industrial Relations Act, 1960 deprives the poor workers of their valuable right of approaching a Court of law and therefore, it is illegal and liable to be quashed.
- O. THAT other grounds shall be raised at the time of hearing of the present petition.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Issue an appropriate writ/order/direction in the nature of mandamus declaring the notifications Annexure P-1, P-2 and P-10 issued by the respondent Nos. 2, 4 and 3 respectively ultra-vires the provisions of section 5 of the Factories Act, 1948 and Article 14 and 21 of the Constitution of India consequently quashing them and pass an appropriate order restraining the Respondents herein from granting exemptions to the factories registered under Factories Act, 1947 by exercising the powers conferred under section 5 of the Factories Act in view of the prevailing "COVID-19" pandemic; and/or

- b) Issue an appropriate writ in the nature of mandamus or any other appropriate writ directing Respondents to refrain from abrogating the statutory provisions under various statutes enacted for welfare of the workmen in view of the prevailing “COVID-19” pandemic; and/or
- c) Grant ad interim ex parte stay on executive Order/Gazette Notifications by the respondent State Governments whereby exemptions have been granted by suspending provisions of labour laws providing for welfare measures to observed for welfare of the workers; and/or
- d) pass such other or further order/s as this Hon’ble Court may deem fit and proper in the facts and circumstances of this case.

AND FOR THIS ACT OF KINDNESS THE
PETITIONER AS IN DUTY BOUND SHALL
EVER PRAY

DRAWN & FILED BY



Drawn on: 12.05.2020

Filed on: 14.05.2020

New Delhi

[NIRMAL KUMAR AMBASTHA]

Advocate for the Petitioner

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) No. OF 2020

IN THE MATTER OF:-

PANKAJ KUMAR YADAV

...Petitioner

VERSUS

UNION OF INDIA & ORS.

...Respondents

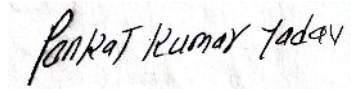
AFFIDAVIT

I, **PANKAJ KUMAR YADAV**, S/O SRI RAJ KISHORE PD. YADAV, R/O Gayatri Mandir Road, Sudna Medini Nagar, District – Palamau 822 101 **JHARKHAND** do hereby state and declare on solemn affirmation as under:-

1. That I am the petitioner in the present Writ Petition and hence well conversant with the facts and circumstances of the case and as such am competent to swear this affidavit.
2. That I state that I have read and understood the contents of the accompanying Writ Petition comprising of the List of Dates and events furnished along with the Writ Petition from pages B to K and the Writ Petition from paras 1 to 9 Pages 1 to 29, questions of law A to E, grounds A to O and also prayer clause and IAs, which have been drafted under my instruction and I state that same are true and correct to the best of my knowledge and belief and rest are submissions made on the basis of legal advice rendered to me which I believe to be correct.

31

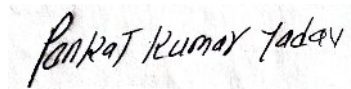
3. I also state that the Annexures annexed to the Special Leave Petition are true copies of their respective originals.



DEPONENT

VERIFICATION

Verified at _____ on this the ____ day of May, 2020, I the above-named deponent, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and belief. No part of it is false and nothing material has been concealed therefrom.



DEPONENT

Constitution of India

Part – IV

Directive Principles of State Policy

Relevant Provisions

14. Equality before law.-

The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

19. Protection of certain rights regarding freedom of speech etc.-

(1) All citizens shall have the right-

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India; and
- (f) omitted
- (g) to practice any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or

morality or in relation to contempt of court, defamation or incitement to an offence.

- (3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.
- (4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.
- (5) Nothing in sub-clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.
- (6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it

relates to, or prevent the State from making any law relating to,-

- (i) the professional or technical qualifications necessary for practicing any profession or carrying on any occupation, trade or business, or
- (ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

21. Protection of life and personal liberty.-

No person shall be deprived of his life or personal liberty except according to procedure established by law.

38. State to secure a social order for the promotion of welfare of the people.-

- (1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.
- (2) The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

39. Certain principles of policy to be followed by the State:-

The State shall, in particular, direct its policy towards securing-

- (a) that the citizens, men and women equally, have the right to an adequate means to livelihood;
- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

42. Provision for just and humane conditions of work and maternity relief.-

The State shall make provision for securing just and humane conditions of work and for maternity relief.

43. Living wage, etc., for workers.-

The State shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural

opportunities and, in particular, the State shall endeavor to promote cottage industries on an individual or co-operative basis in rural areas.

43.A Participation of workers in management of industries.-

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organizations engaged in any industry.

47. Duty of the State to raise the level of nutrition and the standard of living and to improve public health.-

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavor to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

A handwritten signature in blue ink, appearing to read 'usmt', is centered on the page.

//True Copy//

Industrial Disputes Act, 1947

Relevant Provisions

36B. Power to exempt

Where the appropriate government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings carried on by a department of that government that adequate provisions exist for the investigation and settlement of industrial disputes in respect of workmen employed in such establishment or undertaking or class of establishments or undertakings, it may, by notification in the Official Gazette, exempt, conditionally or unconditionally such establishment or undertaking or, class of establishments or undertakings from all or any of the provisions of this Act.



//True Copy//

Factories Act, 1948**Relevant Provisions****5. Power to exempt during public emergency**

In any case of public emergency the State Government may, by notification in the Official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act [except section 67] for such period and subject to such conditions as it may think fit:

PROVIDED that no such notification shall be made for a period exceeding three months at a time.

Explanation: For the purposes of this section "public emergency" means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.

6. Approval, licensing and registration of factories**(1) The State Government may make rules-**

- (a) requiring, for the purposes of the Act, the submission of plans of any class or description of factories to the Chief Inspector or the State Government;
- (aa) requiring the previous permission in writing of the State Government or the Chief Inspector to be obtained for the site on which the factory is to be situated and for the construction or extension of any factory or class or description of factories;

- (b) requiring for the purpose of considering applications for such permission the submission of plans and specifications;
 - (c) prescribing the nature of such plans and specifications and by whom they shall be certified;
 - (d) requiring the registration and licensing of factories or any class or description of factories, and prescribing the fees payable for such registration and licensing and for the renewal of licenses;
 - (e) requiring that no license shall be granted or renewed unless the notice specified in section 7 has been given.
- (2) If on an application for permission referred to in clause (aa) of sub-section (1) accompanied by the plans and specifications required by the rules made under clause (b) of that sub-section, sent to the State Government or Chief Inspectors by registered post, no order is communicated to the applicant within three months from the date on which it is so sent, the permission applied for in the said application shall be deemed to have been granted.
- (3) Where a State Government or a Chief Inspector refuses to grant permission to the site, construction or extension of a factory or to the registration and licensing of a factory, the applicant may within thirty days of the date of such refusal appeal to the Central Government if the decision appealed from was of the State Government and to the State Government in any other case.

Explanation: A factory shall not be deemed to be extended within the meaning of this section by reason only of the

replacement of any plant or machinery, or within such limits as may be prescribed, of the addition of any plant or machinery if such replacement or addition does not reduce the minimum clear space required for safe working around the plant or machinery or adversely affect the environmental conditions from the evolution or emission of steam, heat or dust or fumes injurious to health.

7. Notice by occupier

- (1) The occupier shall, at least fifteen days before he begins to occupy or use any premises as a factory, send to the Chief Inspector a written notice containing-
 - (a) The name and situation of the factory;
 - (b) the name and address of the occupier;
 - (bb) the name and address of the owner of the premises or building (including the precincts thereof) referred to in section 93;
 - (c) the address to which communications relating to the factory may be sent;
 - (d) the nature of the manufacturing process-
 - (i) carried on in the factory during the last twelve months in the case of factories in existence on the date of the commencement of this Act; and
 - (ii) to be carried on in the factory during the next twelve months in the case of all factories;
 - (e) the total rated horse power installed or to be installed in the factory, which shall not include the rated horse power of any separate stand-by plant;
 - (f) the name of the manager of the factory for the purposes of this Act;

- (g) the number of workers likely to be employed in the factory;
 - (h) the average number of workers per day employed during the last twelve months in the case of a factory in existence on the date of the commencement of this Act;
 - (i) such other particulars as may be prescribed.
- (2) In respect of all establishments which come within the scope of the Act for the first time, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) within thirty days from the date of the commencement of this Act.
- (3) Before a factory engaged in a manufacturing process which is ordinarily carried on for less than one hundred and eighty working days in the year resumes working, the occupier shall send a written notice to the Chief Inspector containing the particulars specified in sub-section (1) at least thirty days before the date of the commencement of work.
- (4) Whenever a new manager is appointed, the occupier shall send to the [Inspector a written notice and to the Chief Inspector a copy thereof within seven days from the date on which such person takes over charge.
- (5) During any period for which no person has been designated as manager of a factory or during which the person designated does not manage the factory, any person found acting as a manager, or if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

8. Inspectors

- (1) The State Government may, by notification in the Official Gazette, appoint such persons as possess the prescribed qualification to be Inspectors for the purposes of this Act and may assign to them such local limits as it may think fit.
- (2) The State Government may, by notification in the Official Gazette, appoint any person to be a Chief Inspector who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector through out the State.
- (2A) The State Government may, by notification in the Official Gazette, appoint as many Additional Chief Inspectors, Joint Chief Inspectors and Deputy Chief Inspectors and as many other officers as it thinks fit to assist the Chief Inspector and to exercise such of the powers of the Chief Inspector as may be specified in such notification.
- (2B) Every Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector and every other officer appointed under sub-section (2A) shall, in addition to the powers of a Chief Inspector specified in the notification by which he is appointed, exercise the powers of an Inspector throughout the State.
- (3) No person shall be appointed under sub-section (1), sub-section (2), sub-section (2A) or sub-section (5) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

- (4) Every District Magistrate shall be an Inspector for his district.
- (5) The State Government may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.
- (6) In any area where there are more Inspectors than one the State Government may, by notification as aforesaid, declare the powers, which such Inspectors shall respectively exercise and the Inspector to whom the prescribed notices are to be sent.
- (7) Every Chief Inspector, Additional Chief Inspector, Joint Chief Inspector, Deputy Chief Inspector, Inspector and every other officer appointed under this section shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860), and shall be officially subordinate to such authority as the State Government may specify in this behalf.

51. Weekly hours

No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

54. Daily hours

Subject to the provisions of section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day:

PROVIDED that, subject to the previous approval of the Chief Inspector, the daily maximum specified in this

section may be exceeded in order to facilitate the change of shifts.

55. Intervals for rest

- (1) The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.
- (2) The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt any factory from the provisions of sub-section (1) so however that the total number of hours worked by a worker without an interval does not exceed six.

56. Spreadover

The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day:

PROVIDED that the Chief Inspector may, for reasons to be specified in writing, increase the spread over up to twelve hours.

59. Extra wages for overtime

- (1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.
- (2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances, including the cash equivalent of the advantage accruing

through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.

- (3) Where any workers in a factory are paid on a piece-rate basis, the time rate shall be deemed to be equivalent to the daily average of their full-time earnings for the days on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done, and such time rates shall be deemed to be the ordinary rates of wages of those workers:

PROVIDED that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earning of the worker for the days on which he actually worked in the week in which the overtime work was done.

Explanation: For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.

- (4) The cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other

articles shall be computed as often as may be prescribed on the basis of the maximum quantity of food grains and other articles admissible to a standard family.

Explanation 1 : "Standard family" means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2: "Adult consumption unit" means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of .8 and .6 respectively of one adult consumption unit.

- (5) The State Government may make rules prescribing-
 - (a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other articles shall be computed; and
 - (b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

65. Power to make exempting orders.-

- (1) Where the State Government is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class or description of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of section 61 in respect of such workers therein, to such extent and in such

manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

- (2) The State Government or, subject to the control of the State Government, the Chief Inspector, may by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers, in any factory or group or class or description of factories from any or all of the provisions of sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.
- (3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely:-
 - (i) the total number of hours of work in any day shall not exceed twelve;
 - (ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;
 - (iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;
 - (iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy-five.

Explanation.-In this sub-section “quarter” has the same meaning as in subsection (4) of section 64.

67. Prohibition of employment of young children

No child who has not completed his fourteenth year shall be required or allowed to work in any factory.

79. Annual leave with wages

- (1) Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of-
 - (i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;
 - (ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year.

Explanation 1 : For the purpose of this sub-section-

- (a) any days of lay-off, by agreement or contract or as permissible under the standing orders;
- (b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and
- (c) the leave earned in the year prior to that in which the leave is enjoyed;

shall be deemed to be days on which the worker has worked in a factory for the purpose of computation of the period of 240 days or more, but shall not earn leave for these days.

Explanation 2: The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

- (2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in clause (i) or, as the case may be, clause (ii) of sub-section (1) if he has worked for two-thirds of the total number of days in the remainder of the calendar year.
- (3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in

service, during the course of the calendar year, he or his heir or nominee, as the case may be, shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death calculated at the rates specified in sub-section (1), even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave, and such payment shall be made-

- (i) where the worker is discharged or dismissed or quits employment, before the expiry of the second working day from the date of such discharge, dismissal, or quitting; and
 - (ii) where the worker is superannuated or dies while in service, before the expiry of two months from the date of such superannuation or death.
- (4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.
- (5) If a worker does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

PROVIDED that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child:

PROVIDED FURTHER that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in sub-section (8) and (9) or in contravention of sub-section (10) shall be entitled to carry forward the⁹³[leave refused] without any limit.

- (6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which he wishes his leave to begin, to take all the leave or any portion thereof allowable to him during the calendar year:

PROVIDED that the application shall be made not less than thirty days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947):

PROVIDED FURTHER that the number of times in which leave may be taken during any year shall not exceed three.

- (7) If a worker wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6); and in such a case wages as admissible under section 81 shall be paid not later than fifteen days, or in the case of a public utility service not later than thirty days from the date of the application for leave.
- (8) For the purpose of ensuring the continuity of work, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under section 3 of the Industrial Disputes Act, 1947 (14 of 1947), or a similar Committee constituted under any other Act or if there is no such Works Committee or a similar Committee in the

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factory, in agreement with the representatives of the workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the grant of leave allowable under this section may be regulated.

- (9) A scheme lodged under sub-section (8) shall be displayed at some conspicuous and convenient places in the factory and shall be in force for a period of twelve months from the date on which it comes into force, and may thereafter be renewed with or without modifications for a further period of twelve months at a time, by the manager in agreement with the Works Committee or a similar Committee, or as the case may be, in agreement with the representatives of the workers as specified in sub-section (8), and a notice of renewal shall be sent to the Chief Inspector before it is renewed.
- (10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused, unless refusal is in accordance with the scheme for the time being in operation under sub-sections (8) and (9).
- (11) If the employment of a worker who is entitled to leave under sub-section (1) or sub-section (2), as the case may be, is terminated by the occupier before he has taken the entire leave to which he is entitled, or if having applied for and having not been granted such leave, the worker quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under section 80 in respect of the leave not taken, and such payment shall be made, where the employment of the worker is terminated by the occupier, before the expiry of the second working day after such termination, and where a worker who quits his employment, on or before the next pay day.

- (12) The unveiled leave of a worker shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

88. Notice of certain accidents

- (1) Where in any factory an accident occurs which causes death, or which causes any bodily injury by reason of which the person injured is prevented from working for a period of forty-eight hours or more immediately following the accident, or which is of such nature as may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.
- (2) Where a notice given under sub-section (1) relates to an accident causing death, the authority to whom the notice is sent shall make an inquiry into the occurrence within one month of the receipt of the notice or, if such authority is not the Inspector, cause the Inspector to make an inquiry within the said period.
- (3) The State Government may make rules for regulating the procedure at inquiries under this section.

112. General power to make rules

The State Government may make rules providing for any matter which, under any of the provisions of this Act, is to be or may be prescribed or which may be considered expedient in order to give effect to the purposes of this Act.



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**THE MADHYA PRADESH INDUSTRIAL
RELATIONS ACT, 1960
(27 of 1960)**

[Received the assent of the President on the 17th November, 1960, assent first published in the "Madhya Pradesh Gazette ", Extraordinary, on the 31st December, 1960.]

PREAMBLE

An Act to regulate the relations of employers and employees in certain matters, to make provision for settlement of industrial disputes and to provide for certain other matters connected therewith.

1. Short title, extent and commencement—

- (1) This act may be called the Madhya Pradesh Industrial Relation Act. 1960.
- (2) It extends to the whole of Madhya Pradesh.
- (3) This section and section 112 shall come into force at once and the state government may, by notification bring, all or any of the remaining provisions of this Act into force in respect of—
 - (a) any or all industries, or,
 - (b) undertakings in any industry wherein the number of employees, on any day, during twelve months preceding or on the date of the notification or on any day thereafter, was or is more then such number as may be specified in such notification on such date as may be specified therein.
- (4) The State Government may, by notification, direct that the provisions of this Act shall cease to apply to such industry in such area and from such date as may be specified in the notification.

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Notification

Labour and Employment Department,
Sachivalaya, Gandhinagar

Date – 17.04.2020

Factories Act, 1948

No. GHR/2020/56/FAC/142020/346/M3

WHEREAS the Government of India has declared Lockdown across India to fight against the World wide Pandemic “Coronavirus”,

AND WHEREAS the Government of India has decided to provide certain relaxations for industrial and commercial activities from 20th April, 2020,

AND WHEREAS the Government of Gujarat has decided that these relaxations will not be applicable to areas declared as hotspots or containment zones in different cities of the State and the commercial activities and businesses can start functioning from 20th April, 2020 but with due procedures of safety and social distancing,

NOW, THEREFORE, in exercise of powers conferred by Section 5 of the Factories Act, 1948 (LXIII of 1948), the Government of Gujarat hereby directs that all the factories registered under the Factories Act, 1948 shall be exempted from various provisions relating to weekly hours, daily hours, intervals for rest etc. of adult workers under section 51, section 54, section 55 and section 56 with the

following conditions from 20th April, 2020 till 19th July, 2020 –

- (1) No adult worker shall be allowed or required to work in a factory for more than twelve hours in any day and seventy two hours in any week.
- (2) The period of works of adult workers in a factory each day shall be so fixed that no period shall exceed six hours and that no worker shall work for more than six hours before he had an interval for rest of at least half an hour.
- (3) No female worker shall be allowed or required to work in factory between 7.00 PM to 6.00 AM.
- (4) Wages shall be in a proportion of the existing wages. (e.g. If wages for eight hours are 80 rupees, then proportionate wages for twelve hours will be 120 rupees).

By order and the name of Governor of Gujarat

Sd/-

(Jyotsna Chauhan)

Deputy Secretary to the Government

To,

The Manager,

Government Central Press,

Gandhinagar

With a request to publish the notification in the Extra-Ordinary Gujarat Government Gazette Part – IVB and copies of printed notification may please be distributed as under –

- (i) Labour and Employment Department,
Sachivalaya, Gandhinagar – 05 copies
- (ii) The Commissioner of Labour, Gujarat State,
Gandhinagar – 05 copies
- (iii) The Director, Industrial Safety and Health,
Gujarat State, Gandhinagar – 05



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Madhya Pradesh Gazette

Published by Authority

Part – 4 (C)

Final Rules

Department of Labour

Mantralaya, Vallabh Bhawan, Bhopal

Bhopal, dated 22.04.2020

No. 247-2020-A-Sixteen

WHEREAS the Government of India has declared Lockdown across India to fight against the World wide Pandemic “COVID-19”,

AND WHEREAS the Government of India has decided to provide certain relaxations for industrial from 20th April, 2020,

AND WHEREAS the Government of Madhya Pradesh has decided that these relaxations will not be applicable to areas declared as hotspots or containment zones in different cities of the State and the commercial activities and businesses can start functioning from 20th April, 2020 but with due procedures of safety and social distancing,

NOW, THEREFORE, in exercise of powers conferred by Section 5 of the Factories Act, 1948 (LXIII of 1948), the Government of Gujarat hereby directs that all the factories registered under the Factories Act, 1948 shall be exempted from various provisions relating to weekly hours, daily hours, intervals for rest etc. of adult workers under clause (iii)

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and (iv) of sub-section 3 of section 65 the following conditions for three months from the date of publication of this Notification in Madhya Pradesh Gazette –

- (1) No adult worker shall be allowed or required to work in a factory for more than twelve hours in any day and seventy two hours in any week.
- (2) The period of works of adult workers in a factory each day shall be so fixed that no period shall exceed six hours and that no worker shall work for more than six hours before he had an interval for rest of at least 30 minutes.
- (3) Over-time Wages shall be paid as provided under section 59 of the Factories Act, 1948.

By order and the name of Governor of Madhya Pradesh

Sd/-

(Vandana Mehra Atoot)

Deputy Secretary



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Madhya Pradesh Gazette

(Extra-Ordinary)

Published by Authority

Department of Labour

Mantralaya, Vallabh Bhawan, Bhopal

Bhopal, dated 05.05.2020

No. 954-02-2020-A-16

In supersession of this department's notification No. F-4(E)-1-2016-A-XV dated 28th March, 2017 (published in Madhya Pradesh Gazette dated 21st April, 2017), and in exercise of the powers conferred under sub-section (1) of Section 8 and Section 112 of the Factories Act, 1948 (No. 63 of 1948), the State Government, hereby, notify to recognize the Third Party Certification for non-hazardous category factories employing upto 50 Workers as per the Business Reform Action Plan, 2016 under the Industrial Policy and Promotion, Ministry of Commerce and Industries, Government of India.

Such factories which submit the certification report carried out by a Third Party authorized by the Labour Commissioner, Madhya Pradesh regarding compliance of the Factories Act, 1948 (No. 63 of 1948) to the Inspector having jurisdiction, before 31st January of every year, shall be exempted from routine inspection process, Provided inspection of such factories shall only be carried out with prior permission of Labour Commissioner, Madhya Pradesh in case of

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Serious/Fatal Accident or complaint information received thereto. The factories those fail to submit their compliance certification report before the prescribed deadline of 31st January of every year shall not be entitled for such exemption.

By order and the name of Governor of Madhya Pradesh

Sd/-

(Ashok Shah)

Principal Secretary

A handwritten signature in black ink, appearing to read 'Ashok Shah', is written over a light blue rectangular stamp.

//True Copy//

Madhya Pradesh Gazette

(Extra-Ordinary)

Published by Authority

Department of Labour

Mantralaya, Vallabh Bhawan, Bhopal

Bhopal, dated 05.05.2020

No. 955-02-2020-A-16

In supersession of this department's notification No. -4(E)-1-2016-A-XVI dated 14th June, 2016 (published in Madhya Pradesh Gazette dated 9th September, 2016), and in exercise of the powers conferred under sub-section (1) of Section 8 and Section 112 of the Factories Act, 1948 (No. 63 of 1948), the State Government, hereby, establishes the following amended Rule 18(B) of Madhya Pradesh Factories Rules, 1962, which will be effective from the date of publication of this notification in Madhya Pradesh Gazette.

AMENDMENT

“18-B. Notwithstanding anything contrary contained in these Rules, any person or agency, which is so authorized by the Labour Commissioner, Madhya Pradesh shall be authorized to conduct inspection subject to such restrictions as may be specified.”

By order and the name of Governor of Madhya Pradesh

Sd/-

(Ashok Shah)

Principal Secretary

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Madhya Pradesh Gazette

(Extra-Ordinary)

Published by Authority

Department of Labour

Mantralaya, Vallabh Bhawan, Bhopal

Bhopal, dated 05.05.2020

No. 956-02-2020-A-16

In exercise of powers conferred under section 36-B of the Industrial Disputes Act, 1947 (14 of 1947), the State Government, hereby, exempts such industries of the State from the provisions of this Act, except the provision of Chapter V-A and Section 25-N, 25-O, 25-P, 25-Q and 25-R of Chapter V-B for next 1000 days from the date of publication of this notification in Madhya Pradesh Gazette subject to the condition that adequate provisions are made by such industries for the investigation and settlement of Industrial Disputes of workmen employed by them. This notification shall be applicable to those new industries which will be registered in the Factories Act, 1948 and start production for the first time in next 1000 days after the publication of this notification.

By order and the name of Governor of Madhya Pradesh

Sd/-

(Ashok Shah)

Principal Secretary

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Madhya Pradesh Gazette

(Extra-Ordinary)

Published by Authority

Department of Labour

Mantralaya, Vallabh Bhawan, Bhopal

Bhopal, dated 05.05.2020

No. 957-02-2020-A-16

In exercise of powers conferred under sub-section 4 of section (1) of the Madhya Pradesh Industrial Relations Act, 1960 (No. 27 of 1960), the State Government, hereby, directs that the provisions of the said Act shall not apply to the industries specified in the Schedule below, however the said omission shall not affect the cases pending before the Labour Court, Industrial Court or before any other Court of Law and such cases shall be disposed off or proceeded with as such items had not been omitted, namely –

SCHEDULE

S. **Name of Industries**

No.

(1)

(2)

1. Textile including cotton silk, artificial silk, staple fiber, jute and carpet.
2. Iron and Steel
3. Electrical goods.
4. Sugar and its byproducts including (i) the growing of sugarcane on the farm belonging to or attached

to concern engaged in manufacture of sugar, and
(ii) all agricultural and industrial operation
connected with the growing of sugarcane or the
said manufacture.

5. Cement
6. Electricity generation, transmission and distribution.
7. Public Motor Transport
8. Engineering including manufacture of Motor Vehicle.
9. Potteries including refractory goods, fire bricks, sanitary wares, Insulators, tiles, stoneware pipes, furnace lining bricks and other ceramic goods.
10. Chemical and chemical products industries.
11. Leather tanneries, including leather products.

This notification shall come into force from the
date of its publication in the official Gazette

By order and the name of Governor of Madhya Pradesh

Sd/-

(Ashok Shah)

Principal Secretary



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**Madhya Pradesh Gazette
(Extra-Ordinary)
Published by Authority
Department of Labour**

Mantralaya, Vallabh Bhawan, Bhopal

Bhopal, dated 05.05.2020

No. 958-02-2020-A-16

Whereas Government of Madhya Pradesh have prepared an action plan for 1000 days and decided to create more economic activities and employment opportunities in view of economic situation arising out of worldwide Pandemic “COVID-19” by exempting industries from certain provisions of Factories Act, 1948 for the next 1000 days.

Now, therefore, in exercise of powers conferred by section 5 of the Factories Act, 1948, the Government of Madhya Pradesh, hereby, exempts all Factories registered under the Factories Act, 1948 in the State of Madhya Pradesh from all the provisions the Factories Act, 1948 and Madhya Pradesh Factory Rules, 1962 except section 6, 7, 8 and section 21 to 41-H under Chapter – 4 about safety and section 59, section 65, section 67, section 79, section 88, section 112 and rules made thereunder for three months from the date of publication of this notification in Madhya Pradesh Gazette.

By order and the name of Governor of Madhya Pradesh

Sd/-

(Ashok Shah)

Principal Secretary

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Press Information Bureau

Government of India

Ministry of Labour & Employment

**Labour Minister Interacted with CTU Representatives to
Fight COVID-19 Pandemic**

06-May-2020 18:24 IST

Shri Santosh Kumar Gangwar, Minister of State (I/C) for Labour and Employment held a Webinar with the Central Trade Union Organizations (CTUOs) today at New Delhi to discuss the emergent situation arising out of COVID-19 pandemic and to minimize its impact on the workers and on the economy. These issues include (i) Protection of the interest of Workers and Migrant Workers in view of COVID-19, (ii) Measures to generate Employment, (iii) Measures to be adopted for restarting economic activities and (iv) Measures to improve situation of MSME to enable them to discharge their liabilities under Labour Laws. Senior officers of the Ministry of Labour and Employment, representatives of all CTUOs participated in the Webinar.

The Minister informed about various measures taken by Ministry of Labour and Employment to mitigate the problems of workers during COVID-19. He also pointed out that there is a need to find solutions to the challenges for workers resulting from the national lockdown imposed due to COVID-19. He asked the Central Trade Union Organizations to suggest measures that could be taken to deal with the present situation of the workers and improve their welfare.

The following suggestions were given by the representatives of the Central Trade Unions:

- (i) To provide more trains to transport the migrant workers stranded in various parts of the country. These labourers may also be provided with financial assistance to run their families and may also be facilitated to return to work once the situation gets under control.
- (ii) Creating a National Register for migrant workers/unorganized workers with the facilities of portability and data transfer to help the migrant labour in getting employment and other assistance;
- (iii) Supporting MSMEs, particularly small and tiny industries through measures like interest waiver/restructure of on loans, providing subsidized electricity, etc. There is also a need ensure proper supply of raw material to these industries;
- (iv) Government need to work out strategies for sectors like hotels, cinema, sports, automobiles; severely affected due to lockdown
- (v) Providing subsidy to small and tiny industries in wage component so that these employers are able to pay full wages to all workers for the lockdown period, etc.
- (vi) ASHA/Anganwadi volunteers who are doing a commendable job in reaching out to the victims of the pandemic need to be properly incentivised.
- (vii) Workers who have lost jobs due to lockdown should also be provided cash incentives.
- (viii) The working hours to the workers should not be increased during this time

- (ix) Strict implementation of the labour laws and advisories issued by Ministry of Labour & Employment regarding payment of wages and non-deduction of salaries.
- (x) Monetary assistance, free supply of ration and medical facilities to the unorganized workers and daily wagers
- (xi) Government to procure the farm produces so that the farmers can pay wages to the agricultural workers.
- (xii) Train fare not be taken from the Migrant Workers going back to their home

Concluding the discussions, the Secretary, Labour and Employment welcomed the suggestions given by the members of the CTUOs. He clarified that no train fare has been taken from the migrant workers. He said that a database of migrant workers in various states to monitor their situation is being collected in coordination with the States. 20 Helplines/Control Rooms have been set up to resolve any issue relating to food, payment of wages to workers or any other issue of workers arising due to COVID-19.

The Labour Secretary stated that the focus should now be on reviving the industry and gradually opening of economy, so that there are adequate employment opportunities. He requested the representatives of the CTUOs to instill confidence among the workers to resume work wherever possible and assured that Ministry of Labour and Employment is committed to provide all the help in case of any problems faced by them.

A separate Webinar with the representatives of the Employers Organizations will be held on 8th May 2020.

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Press Information Bureau

Government of India

Ministry of Labour & Employment

08-May-2020 20:08 IST

Union Labour and Employment Ministry Will Take All Possible Steps to Help Mitigate Problems Faced by The Industry and The Workers Due to Lockdown Announced to Curb Covid-19 Pandemic

After Meeting with labour unions Shri Gangwar today holds webinar with employers' organizations

The Ministry of Labour and Employment has been in dialogue with the social partners to discuss the emergent situation arising out of COVID-19 pandemic and to chalk out strategies and policy initiatives to minimize its impact on the workers and on the economy. The Ministry has already held Webinars with the representatives of the Central Trade Unions and the Employers' Associations on 1st May 2020 on the occasion of the International Labour Day. Another Webinar was held separately with the representatives of CTUs on 6th May 2020. In further continuation of the process, Shri Santosh Kumar Gangwar, Minister of State (I/C) for Labour and Employment held a Webinar with the Employers' Organizations today participating from his office in New Delhi. The issues deliberated during the Webinar include (i) Protection of the interest of Workers and Migrant Workers in view of COVID-19, (ii) Measures to generate Employment, (iii) Measures to be adopted for restarting economic activities and (iv) Measures to improve situation of MSME to enable them to discharge their liabilities under Labour

Laws. Senior officers of the Ministry of Labour and Employment, Representatives of the Employers' Organizations participated in the Webinar.

The Minister in address informed about various measures taken by the Union Ministry of Labour and Employment to mitigate the problems of workers during COVID-19 like relaxation in the provisions of ESIC and EPF, setting up of control centres/helplines across the country, etc. He mentioned that his Ministry is sympathetic to the requirements of the industry and would try to provide all possible help, for revival of industry and reopening of the economy. He also mentioned that the Ministry of Labour and Employment is consulting other concerned line Ministries for resolving the issues being faced by the Industry, particularly, MSME sector. He requested the representatives of the Employers' Organizations to suggest measures that could be taken to deal with the present situation so that the interests of all stakeholders are taken care of.

The following suggestions were given by the representatives of the Employers Organizations:

- (i) Relaxation of the provisions of Industrial Disputes Act to treat the lockdown period as lay-off;
- (ii) Keeping in view the difficulties being faced by the industry and liquidity crisis, the wages paid by to the workers may be covered under expenses under CSR funds;
- (iii) To increase the maximum limit of 33% workforce to at least 50% of the workforce after the reopening of the industry to allow increase of goods and services to optimum level;

- (iv) to waive the PMGKY's condition of covering only those enterprises whose 90% or more employees were drawing monthly wages less than Rs 15,000 under the Scheme so that more workers can be covered under the scheme;
- (v) To suspend the labour laws for the next 2-3 years except the provisions like minimum wages, bonus and statutory dues, to help industry to come out of the present crisis;
- (vi) To increase the working hours to 12 hours per day.
- (vii) To provide an appropriate package to the industries so that the business is sustainable and there is no loss of job opportunities.
- (viii) Power supply to the industry may be provided at subsidized rates.
- (ix) The status of Migrant Labour is a matter of serious concern. A programme may be formulated for return of these migrant labour to work by providing counseling to alleviate their fears on Covid-19, providing financial help for their transportation, providing free groceries for about six months, etc.
- (x) To create a databank of Migrant Labour. To create a national epidemic fund to help the workers of unorganized sector and daily wagers.
- (xi) Reduce social security costs on both employees and employers.
- (xii) Instead of different zones like red, orange and green, there should only be zones viz. containment zone and noncontainment zones to facilitate easy movement of workers and goods. Allow all activities in the non-containment zones.

Concluding the discussions, the Labour Secretary welcomed the suggestions given by the representatives of the Employers' Organizations. He stated that the focus should now be on reviving the industry and opening of economy, to fully revive the economic activities and employment opportunities. He assured that Ministry of Labour and Employment is committed to provide all the help in case of any problems faced by the industry and also to protect the interests of the workers.

A handwritten signature in blue ink, appearing to read 'N. S. Rao', is centered on the page.

//True Copy//

Government of Uttar Pradesh

Labour Department Section – 3

No. 13/2020/502/36-03-2020-30(S)/2020TC dated
08.05.2020

Lucknow, dated 08th May, 2020

WHEREAS the Government of India has declared lockdown and other stringent measures to fight against the Pandemic due to Pandemic “COVID-19”, as a result of which internal disturbance of the category of Public Emergency has arisen in the entire country including the State of Uttar Pradesh.

THEREFORE, in exercise of powers conferred by Section 5 of the Factories Act, 1948 (Act No. 63 of 1948), the Government of Uttar Pradesh hereby directs that all the factories registered under the Factories Act, 1948 shall be exempted from various provisions relating to weekly hours, daily hours, overtime and intervals for rest etc. of adult workers under section 51, section 54, section 55, section 56 and section 59 with the following conditions from 20th April, 2020 till 19th July, 2020 –

- (1) No adult worker shall be allowed or required to work in a factory for more than twelve hours in any day and seventy two hours in any week.
- (2) The period of works of adult workers in a factory each day shall be so fixed that no period shall exceed six hours and that no worker shall work for more than six hours before he had an interval for rest of at least half an hour.

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- (3) Wages shall be in a proportion of the existing wages. (e.g. If wages for eight hours are 80 rupees, then proportionate wages for twelve hours will be 120 rupees).

By order

Sd/-

(Suresh Chandra)

Principal Secretary



//True Copy//

IN THE SUPREME COURT OF INDIA

(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) No. OF 2020

IN THE MATTER OF:-

PANKAJ KUMAR YADAV

...Petitioner

VERSUS

UNION OF INDIA & ORS.

...Respondents

APPLICATION SEEKING EXEMPTION FROM FILING

OFFICIAL TRANSLATION OF ANNEXURES

TO,

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUDGES OF SUPREME COURT OF INDIA.

HUMBLE APPLICATION ON BEHALF OF
THE APPLICANT ABOVE-NAMED

MOST RESPECTFULLY SHOWETH:

1. That the petitioner is filing the accompanying Writ Petition under Article 32 of the Constitution of India as Public Interest Litigation.
2. That all the facts have stated in the Writ Petition in details and the same are not repeated herein for the sake of brevity. The petitioner craves leave and permission of this Hon'ble Court to refer and rely upon the contents of the accompanying Writ Petition at the time of hearing of this Application also.
3. That the P-10 being filed with the present petition are originally in vernacular language i.e. Hindi, which have translated into English by the practicing advocates of this

Hon'ble Court, who are conversant with these languages. The translation is true English version of the respective originals.

4. That it will be fit and proper to allow the petitioner to place on record the translated versions of the Annexure P-10 in the interest of justice.
5. That the present application is being filed bona fide and in the interest of justice.

PRAYER

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- (a) Exempt the petitioner from filing Official Translation of Annexure P-10; and/or
- (b) pass any other order/orders that this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

AND FOR THIS ACT OF KINDNESS PETITIONER IS IN DUTY BOUND SHALL EVERY PRAY.

DRAWN & FILED BY

Drawn on: 12.05.2020
Filed on: 14.05.2020
New Delhi



[NIRMAL KUMAR AMBASTHA]
Advocate for the Petitioner

**IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION (CIVIL) No. _____ OF 2020**

IN THE MATTER OF:-

PANKAJ KUMAR YADAV

...Petitioner

VERSUS

UNION OF INDIA & ORS.

...Respondents

**APPLICATION SEEKING EXEMPTION FROM FILING
ORIGINAL VAKALATNAMA AND NOTARISED
AFFIDAVIT**

TO,

THE HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS
COMPANION JUDGES OF SUPREME COURT OF INDIA.

HUMBLE APPLICATION ON BEHALF OF
THE APPLICANT ABOVE-NAMED

MOST RESPECTFULLY SHOWETH:

3. That the petitioner is filing the accompanying Writ Petition under Article 32 of the Constitution of India as Public Interest Litigation.
4. That all the facts have stated in the Writ Petition in details and the same are not repeated herein for the sake of brevity. The petitioner craves leave and permission of this Hon'ble Court to refer and rely upon the contents of the accompanying Writ Petition at the time of hearing of this Application also.
6. That the petitioner is presently stationed at Daltonganj (Jharkhand) and it is not possible for him get the affidavit duly notarised and send the vakalatnama and notarised affidavit to the undersigned counsel due to national

lockdown. Hence, the petition is being filed supported by digitally signed Vakalatnama and Affidavit.

7. That the petitioner undertakes to submit the original Vakalatnama and Notarised Affidavit as soon as the lockdown is lifted and the Hon'ble Court commences functioning normally.
8. That it will be fit and proper to allow the petitioner to file the present petition supported by digitally signed Vakalatnama and Affidavit in the interest of justice.
9. That the present application is being filed bona fide and in the interest of justice.

PRAYER

It is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- (a) Exempt original Vakalatnama and Notarised Affidavit in support of the present Writ Petition during national lockdown period; and/or
- (b) pass any other order/orders that this Hon'ble Court may deem fit and proper in the facts and circumstances of this case.

AND FOR THIS ACT OF KINDNESS PETITIONER IS IN DUTY BOUND SHALL EVERY PRAY.

DRAWN & FILED BY



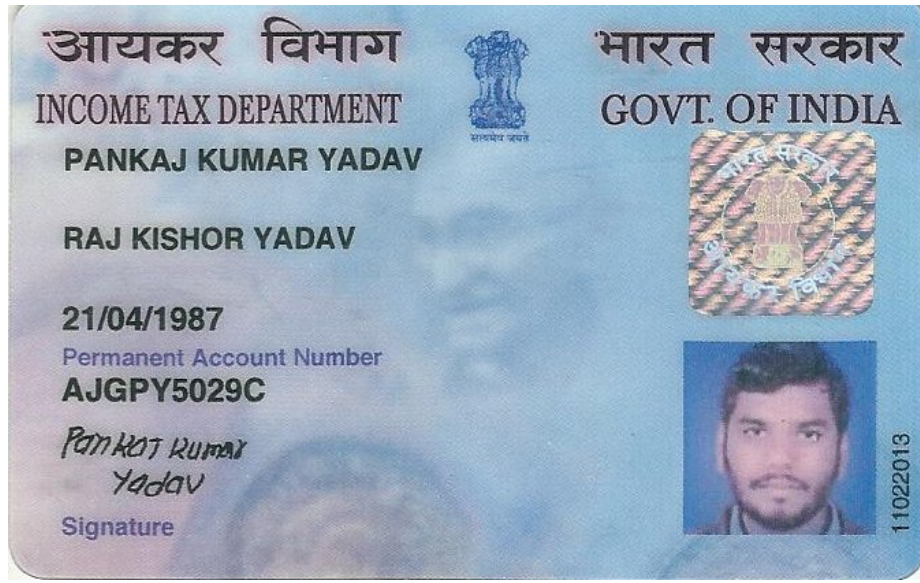
Drawn on: 12.05.2020
Filed on: 14.05.2020
New Delhi

[NIRMAL KUMAR AMBASTHA]
Advocate for the Petitioner

Residence proof

 भारत सरकार Government of India	 आधार
भारतीय विशिष्ट पहचान प्राधिकरण भारत सरकार Unique Identification Authority of India Government of India	
नामांकन क्रम / Enrollment No.: 2041/00031/05763	
To पंकज कुमार यादव Pankaj Kumar Yadav S/O: Raj Kishore Prasad Yadav GAYATRI NAGAR, SUDNA Daltonganj Daltonganj Daltonganj Palamu Jharkhand 822101 122091416  ML220914161FT	
	
आपका आधार क्रमांक / Your Aadhaar No. : 7833 8245 1623	
आधार - आम आदमी का अधिकार	
 भारत सरकार Government of India	 आधार
	पंकज कुमार यादव Pankaj Kumar Yadav जन्म तिथि / DOB : 21/04/1987 पुरुष / Male
	
7833 8245 1623	
आधार - आम आदमी का अधिकार	

Identity Proof



**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (Civil) No. _____ Of 2020**

IN THE MATTER OF:

PANKAJ KUMAR YADAV

...Petitioner (s)

VERSUS

UNION OF INDIA & ORS.

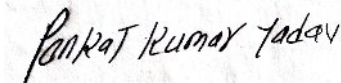
...Respondent(s)

VAKALATNAMA

I/We **UNDERSIGNED**, the respondent in the above Petition/ Appeal do hereby appoint and retain **SHRI NIRMAL KUMAR AMBASTHA**, Advocate On Record of the Supreme Court of India to act and appear for me/ us in the above Suit/ Appeal/ Petition/Reference and on my/ our behalf to conduct and prosecute (or defend) the same and all proceeding that may be taken in respect of any application connected with the same or any decree or order passed therein including proceedings in taxation and application for Review, to file and obtain return of documents, and to deposit and receive money on my/ our behalf in the said Suit/ Appeal/Petition/Reference and in applications of Review, and to represent me/ us and to take all necessary steps in my/ our behalf in the above matter. I/We agree to ratify all acts done by the aforesaid Advocate in pursuance of this authority.

Dated this the 12th day of May, 2020

Accepted & Identified & Certified



[PANKAJ KUMAR YADAV]
Petitioner



[NIRMAL KUMAR AMBASTHA]
Advocate on Record, Supreme Court.

MEMO OF APPEARANCE

To,
The Registrar,
Supreme Court of India
New Delhi

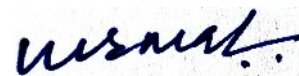
Sir,

Please enter my appearance on behalf of the Petitioner(s)/ Appellant(s)/**Respondent(s)**/Intervener in the matter above mentioned.

New Delhi

Dated this 12th day of May, 2020

Yours faithfully



[NIRMAL KUMAR AMBASTHA]
Advocate-on-Record for the Caveator(s)
Petitioner(s)/Respondent(s)/Appellant(s)/Applicant(s)
Code: 2685