



Working women in Kerala need beneficial laws



By Sara John - on July 30, 2018

Though the amended Shops and Commercial Establishments Act is a welcome move for working women in Kerala, there are teething problems that still need to be resolved at the earliest.

The context of regulation as a policy tool varies as time progresses. It is incumbent on the concerned authority to systematically review current regulations and propose progressive reforms conducive to the present scenario. The Amendment to the Shops and Commercial Establishments Act, 1960 passed by the Kerala Government is a requisite step purported to update archaic laws.



The Bill that has been passed has allowed women to work at night by extending their working time to 9 PM and letting them work even beyond it. Though the decision to allow women to work at night is a progressive step, it has been made conditional as they can work night shifts only if the employer provides transportation facilities from their workplace to residence. Thus the possibility of women working at night is dependent on the willingness and ability of the employer to provide transportation facilities.

“Moreover, employers have the additional burden of ensuring safety of women employees even outside the workplace. This does not provide any incentive for the employer to employ women in night shifts even if they are willing to work at night. Hence, there is limited scope for increase in job opportunities for women.”

As per the National Sample Survey Office (NSSO) report for 2011-12, the Labour Force Participation rate of women is 24.8 percent, while that of men is 57.8 percent. In 2010, NSSO found that the unemployment rate among women in Kerala is 14.1 per cent, whereas it is only 2.9 per cent among men. This is corroborated by the fact that women outnumber men in

seeking employment through employment exchanges. Almost 60 per cent of the total work seekers were women which indicated gender disparity as per 2016's Economic Review of the Government of Kerala.

Though the amended Act intends to increase the employment opportunities for women and reduce gender disparity, it will only reinstate gender-based discrimination by stipulating further conditions for employing women. For instance, The Maternity Benefits Act that was passed last year, which increased paid leave to 26 weeks from 12 weeks, with the intention of enabling women to stay in the workforce even after childbirth. Though it may meet its intended purpose in the long run, it is unambiguously evident that it has backfired now. It is estimated that there would be a net job loss of 11 to 18 lakh women during the fiscal year 2018-19 and it has been solely attributed to the amended Maternity Benefits Act.

It is not practically feasible for all employers of the various shops and commercial establishments to provide transportation facilities as their scale of operations are different. One of the alternatives is to utilise the funds from the Shops and Commercial Establishments' welfare fund board to provide transportation for employees who work in night shifts as transportation in the night is an issue for both men and women. This will ease the burden on the employers and lessen the tendency to prefer men over women. The government can't evade its responsibility for the safety of its citizens. By citing safety reasons to restrict the movement of citizens, the greater problems of crime in society and loopholes in existing laws are left unaddressed. To quote Ronald Reagan: "Government's first duty is to protect the people, not run their lives".

Unemployment is not a problem faced solely by women in Kerala. Kerala has the highest unemployment rate of 12.5 percent as against the all-India level of five per cent as per the fifth annual employment unemployment survey of 2015-2016. Reportedly, the unemployment rate among the youth is high in Kerala with 21.7 percent youngsters without a job in rural areas, while it is at 18 percent in cities and towns.

“The creation of job opportunities is a major issue in Kerala, hindering the economic growth of a state which is perceived as not being business-friendly. The government and its bureaucracy have often been questioned for their inadequacy in encouraging new businesses.”

Given this context, it is difficult to comprehend the decision to steeply increase the penalty for non-compliance of the provisions of the Act.

The solution of increasing the penalty for ensuring compliance supersedes the root question of why people don't comply with certain provisions and what needs to be done to make

compliance easier. According to a study on the impact of regulatory costs on small firms in the US named *The Impact of Regulatory Cost on Small Firms*, small businesses face a larger per-employee cost of adhering to government regulations than big businesses in addition to the fixed cost associated with compliance with regulations. The universal increase in penalty amount among all categories of businesses without considering their scale of operation and cost of compliance can drastically affect their operations in the state and will in no way help the state in overcoming its existing challenges.

The amended Act is indeed much needed, but instead of adopting a hawkish attitude towards the business community, the need of the hour is a collective effort to improve the business environment in the state.

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