

Right to Strike: To What Extent?

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Definition

The word strike is defined in section 2(q) of Industrial Disputes Act as a cessation of work by a body of persons employed in any industry acting in combination, or a concerned refusal, or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment.

Main reasons for strikes

Most of the strikes done in India are by labours or employees due to following reasons :

- Poor working conditions
- Rising prices and insufficient pay
- Inter union rivalry
- Unsatisfactory solutions



Labour unrest in India is a very frequent problem which is expressed by strikes, hunger strikes , sudden stoppage of work etc.

Types of strike

1. Stay in strike: it is a slow down or stoppage of work intended to bring pressure on an employer and concentrated by workers who remain in their workplace.
2. Go- slow: It is an industrial action in which employees perform their duties but seek to reduce productivity in their performance.
3. Hunger strike: it is a method of non-violent resistance or pressure in which participants fast as an act of protest or to provoke feelings of guilt in others to achieve a specific goal.
4. Wild cat strike: it is a strike action undertaken by unionised workers without union leadership's authorisation or approval.
5. Work to rule strike: it is an industrial action where employees do no more than minimum required by the rules of their contract.

6. Bandh: It is a protest used by political activists. It is similar to general strikes.

Example: Bharat Bandh is a call for bandh across India.

Industrial disputes act,1947

The objective of industrial disputes act,1947 is to settle the dispute that arises between employees and employers or between workmen and employers or between employers and workmen.

The definition of strike is mentioned in industrial disputes act in which various guidelines and conditions for strike are also given which must be followed or else the strike will become illegal strike.

Conditions of strike

There are certain conditions which has to be followed by the workmen before going on strike:

- Any person employed in public utility service shall give notice of strike to his employer within six weeks before the strike.
- No person will go on strike within the said time.
- No person shall go on strike before the expiry of said time of notice
- No person shall go on strike during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

Lock outs

Lockouts are the weapons available to the employers to prevent the employees to work. Employers sometimes lockout their employees when there is a need to shut the business or when the business is running in huge losses. They can also lockout the employees on health and safety grounds.

Prohibition on strikes and lockouts

Section 23 of industrial disputes act ,1947 mentions some restriction on strike and lockouts.

No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such woman shall declare a lockout :

1. During the pendency of conciliation proceedings before a board and even days after the conclusion of such proceedings;
2. During the pendency of proceedings before a labour court, tribunal or national tribunal and two months after the conclusion of such proceedings;
3. During the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings;
4. During any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award.

Right to strike- a Fundamental Right?

T.K. Rangarajan v. Gov. Of Tamil Nadu: It was a supreme court judgment delivered by 2-judge bench.

Facts : the government employees went on a indefinite strike in pursuance of their demands relating to pension benefits that had been curtailed on grounds of a resource crunch.

The government of tamil nadu first invoked the tamil nadu essential services maintenance act, 2002 then promulgated an ordinance without giving the employees an opportunity to be heard. The government dismissed about 1.7lakh employees for participating in the strike and some of the employees were also arrested against whom firs were registered.

Aggrieved by this decision, the employees filed a writ petition under article 226/227 of the constitution in the madras high court. The single judge directed to :

- Keep in suspension the dismissal order issued to the striking government employees
- To permit the employees to resume duties in view of their undertaking to withdraw the strike and resume duty.

Aggrieved by this order, the state of tamil nadu filed an appeal before the division bench of the high court and a PIL was also filed on behalf of the employees.

The division bench set aside the interim order and held that the writ petitions were not maintainable.

Against this order, the employees filed an appeal before the Supreme court.

The Supreme Court in this case ruled that there is no fundamental right to strike. The constitution of India guarantees right to form association or unions to the citizens of India under article 19(1)(c) but right to strike is however not absolute.

In *All India Bank Employees Association v. National Industrial Tribunal*, the Supreme Court said that “even a liberal interpretation of sub-clause (c) of clause (1) of article 19 cannot lead to the conclusion that the trade unions has a guaranteed right to strike.”

Largest strike in India till Now

In year 2016, around 180 million workers from public sector went on a 24-day hours strike against Prime Minister Narendra Modi’s economic policies.

Selling of state assets, giving hugely lucrative deals to private business and opening the doors of India’s economy to foreign direct investment are the mechanisms of Narendra Modi to increase the growth rate. These strategies will no lad to social equality.

According to this plan, government would close unproductive factories, raise the cap on foreign investment. But the workers want social security and healthcare guaranteed for all and increase in minimum wage.

They demand some change in labour laws including establishing a \$270 monthly minimum wage for unskilled labourers and ensuring social security for every worker.

Thousands of state banks and government offices, factories were closed at that time. More than 20 protestors were arrested for damaging two government buses in west Bengal.