

CHAPTER-V

CONCLUSIONS, RECOMMENDATIONS AND
PROBLEMS FOR FURTHER RESEARCH

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V.1 (A) INTRODUCTION :

The researcher has discussed important provisions of different Labour Laws, their objects, their applicability to institutions of higher education, judicial decisions on the subject and history, aims objectives and changing role of education in the earlier chapters of this dissertation. On the background of these chapters some conclusions are drawn. The conclusions thus deduced are given in the following paragraphs.

V.1 (B) CONCLUSIONS :

a) Interpretations of the definition of 'industry' as defined in the Industrial Disputes Act, suggests that educational institutions are an industry as imparting education is an systematic activity, organised by co-operation between employer and employee and for rendering services to the society.

b) The decision given by the Supreme Court in Bangalore Water Supply and Sewerage Board in 1978 is final. It lays down that educational institutions are industries. The decision holds good till it is overruled. There are conflicting decisions given by different Courts on this point. This is a sorry state of affairs. The Supreme Court and different High Courts have often felt that

education seeks to build up the personality of the pupil by assisting to his physical, intellectual, moral and emotional development and so cannot be termed as an industry. This view sounds to be more logical but the view laid down in Bangalore Water Supply and Sewerage Board case being a final decision on the point it is good law today.

c) Though educational institutions are industries they are special types of industries considering the aims and objectives and the role it plays in the life of an individual and that of the society. Therefore, Labour Laws have to be applied with certain modifications. The right to go on strike cannot be conceded to a teacher considering the role a teacher plays in the up of a generation. It is a task requiring endless efforts and dedication. But some right to register their protest, demands, grievences must be given to them.

d) Similarly right to lock-out educational institutions also cannot be conceded to the management. Speedier machinery for settlement of disputes is necessary. Thus a number of modifications have to be made before applying the Industrial Disputes Act to educational institutions e.g. the procedurè for settlement of disputes, service conditions, retrenchment, strikes etc. have to be modified.

e) Though institutions of higher education are industries the machinery for settlement of disputes set up under the Industrial Disputes Act is not applicable to institutions of higher education. Shivaji University Act has set up College Tribunals by amending the Act in 1978. All teachers teaching in institutions of higher education are not brought within the scope of this Act. Teachers teaching in Colleges maintained and managed by the Government and Universities are excluded from its jurisdiction. Bombay Civil Services Rules are applicable to such teachers. Thus there is no uniformity in the machinery set up for settlement of disputes.

f) The teacher plays an important role in building up a generation and so he must be able to work with peace of mind and must be able to devote all his time, energy and skill towards his job. Teachers cannot work with a pinch to their stomach and so salary payable to them must be secured and paid without unauthorised deductions and without delay.

g) Educational institutions are not factories as there is no manufacturing process carried on and, therefore, the Factories Act does not apply to institutions of higher education. Fixed time-table can be prepared for scheduled lecturers or class work but no such time-table can be set forth for extracurricular activities. Teachers' job is to strive for all round development of the students and so

hours of work cannot be fixed, certain welfare, safety and health provisions which are specially required in case of a factory shall have to be made in case of small factory or workshop maintained for giving work experience to the students.

h) The Workmens Compensation Act and the Employees State Insurance Act are social security legislations. A person to do his job in the best manner must have some sort of security and freedom from anxiety and mental pressure. These two Acts provide this freedom from anxiety and social security. A teacher also needs some sort of provision in case of sickness and disablement. Though question regarding 'employment injury' does not arise in case of teachers teaching in institutions of higher education, some sort of sickness or disablement benefit must be provided. The principle of 'notional extension of time and place' can be applied and injuries covered on way to and from educational institutions can be caused under a scheme of social insurance.

i) The Trade Union Act has been made applicable to institutions of higher education. An educational institution being an industry such a right must be conceded to it. Non-teaching staff in such institutions also have been given this right.

j) The aims and objects of higher education namely to prepare an ideal citizen, an egalitarian individual worthy of the socialistic pattern of society of which he is an inseparable part, to prepare cultured, intellectual generation reveals that education plays a pivotal role in the life of an individual and the nation. And so, teachers cannot be treated as ordinary labourers. Different criteria have to be applied before fixing their service conditions, procedure for settlement of disputes etc. Labour laws cannot be blindly applied to institutions of higher education. A lot of modification has to be made before such an application is made. The definition of employees (or workers) has to be modified as a teacher cannot be treated on par with a manual worker. The benefits received by workers working in industrial establishments should be made available to teachers e.g. benefits under Employees State Insurance Scheme. In case of teachers there is no question of sickness arising out of employment but for all sorts of sickness medical benefit under the scheme can be made available to teachers.

V. 2 (A) INTRODUCTION :

The researcher has studied the different aspects relating to labour laws and its applicability to institutions of higher education in the earlier chapters. The researcher has also deduced certain conclusions from the discussions

made in the earlier chapter. In the following paragraphs certain proposals and recommendations are made for application of labour laws to institutions of higher education so as to achieve the objectives of higher education.

V.2 (B) RECOMMENDATIONS :

a) Considering the conflicting views of different Courts on the question whether institutions of higher education are industries or not, the legislature must put an end to this sorry state of affairs and amend the definition of industry as given in the Industrial Disputes Act suitably, so as to be clear unambiguous and exhaustive. The definition given under the draft Industrial Relations bill which failed is a good definition and needs to be adopted.

b) In settling disputes between persons working in institutions of higher education and the management there is no uniformity. A common code like that of the Bombay Civil Services Rules have to be framed and the disparity in the remedy in case of disputes given to teachers teaching in affiliated colleges and teachers teaching in Government colleges should be removed.

c) The researcher feels that considering the role played by teachers a right to go on strike cannot be given to them. But their demands, grievances and claims must be

registered and settled quickly. For this purpose, just as there are Works Committees in an industrial establishment a 'Teachers Committee' or a 'Grievance Committee' can be formed to solve routine and day to day problems. Such a Committee may consist of equal representatives of the teachers and the management. The Committee may meet at fixed times and take decisions on important but routine matters. The decision should be binding on both the parties.

d) Provisions in the Minimum Wages Act and Payment of Wages Act dealing with security of payment at regular intervals without unauthorised deduction must be made applicable to the institutions of higher education.

e) A social security or social insurance scheme must be framed on the lines of the Employee State Insurance Scheme to cover persons employed in institutions of higher education.

V.3 (A) INTRODUCTION :

While conducting the present research work the researcher came across some problems which have not yet been explored by conducting through research. The researcher feels that a detail study of these problems is essential. An investigation of these problems will enable better planning for a comprehensive legislative enactment. These

problems are not directly related to the problem under investigation; and hence the researcher has not explored these areas. However, for the benefit of other research students, the researcher has stated below the possible areas in which they can conduct research so that one can get full view of the problem.

V.3 (B) PROBLEMS FOR FURTHER RESEARCH :

a) A comprehensive Act covering matters regarding settlement of disputes securing payment regularly at fixed intervals and without unauthorised deductions, framing a scheme for social security, social insurance, pension and other incentives should be enacted. A detail investigation in this regard has to be made regarding what types of service conditions are suitable for a teacher to devote wholeheartedly towards his task of teaching. A lot of research has to be made to find out how uniformity in the service conditions and procedure for settlement of disputes can be brought between teachers and management in respect of teachers teaching in affiliated colleges and those teaching in colleges maintained and managed by the Government or the University.

b) In creative work like teaching or research the provisions of stimulating conditions of work and adequate opportunities for professional advancement are extremely

important and can play a very significant role in attracting and retaining the right type of persons in the profession. The conditions of work in educational institutions should be such as to enable teachers function at their highest level of efficiency. It should also attract the best people towards this profession. Research should be made as to how educational field can be made most attractive and how adequate facilities for professional growth can be provided.

c) It is already suggested that a common code like that of the Bombay Civil Services Rules have to be framed and the disparity in the remedy in case of disputes given to teacher teaching in affiliated colleges and teachers teaching in Government Colleges and University Departments removed. Now what should be the content of the code, what provisions should be made therein so as to achieve healthy atmosphere conducive to teaching-learning process are the themes for further research.

It is further suggested that while framing such a common code, opinion of all those directly concerned with running of institutions such as Government, management, teachers, teachers' associations etc. should be invited and taken into consideration.

d) Alongwith favourable conditions of services, the teachers should be made responsible for their work. In

other words how can a teacher be made accountable for his work is also a matter for further research. When it is expected that a good teacher of right attitudes towards teaching profession and students should be rewarded it is also necessary to see that a shivker or black sheeps in this noble profession are punished. Now how can this be achieved is a matter of further research.

e) Finally, teachers should have full freedom to get themselves organised and put forth their grievances collectively. There can be no two opinions about it. However, when it is expected to apply Labour Laws to this profession in modified form taking into consideration its noble and dignified work, it is also expected that their organisation does not get degenerated into 'Trade Union' but remains a 'Professional Association'. This is indeed a challenging task and how to achieve it is a problem for further research.