

FIFTEENTH REPORT

**STANDING COMMITTEE ON LABOUR AND WELFARE
(2001)**

(THIRTEENTH LOK SABHA)

MINISTRY OF LABOUR

THE PARTICIPATION OF WORKERS IN MANAGEMENT BILL, 1990

**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2001/Agrahayana, 1923 (Saka)

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**COMPOSITION OF THE STANDING COMMITTEE ON LABOUR AND
WELFARE (2001)**

LOK SABHA MEMBERS

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39. Shri Ka.Ra Subbian,
40. Ms. Frida Topno

SECRETARIAT

1. Shri B. R. Kanathia - Joint Secretary
2. Shri J.P.Sharma-Deputy Secretary
3. Shri Jagdish Prashad – Committee Officer

INTRODUCTION

I, the Chairman of the Standing Committee on Labour and Welfare having been authorised by the Committee to present on their behalf present this Fifteenth Report on 'The Participation of Workers in Management Bill, 1990' relating to Ministry of Labour.

2. 'The Participation of Workers in Management Bill, 1990' was introduced in Rajya Sabha on 30 May, 1990. Hon'ble Speaker, had referred the Bill to Standing Committee on Labour and Welfare under Rule 331 E of the Rules of Procedure and Conduct of Business in Lok Sabha on 12.7.1994 for examination and report. The Committee held preliminary discussion on the Bill on 8.3.95. In the meeting held on 29.11.1995, the then Labour Secretary informed the Committee that the Bill alongwith the amendments received thereon was being discussed in the meeting of Indian Labour Conference and sought deferment of the Bill. Accordingly the then Speaker was apprised in writing about the deferment. Consequent upon the dissolution of Tenth Lok Sabha on 10th May, 1996 the Committee ceased to exist and work pending with the Committee including the Participation of Workers in Management Bill, 1990 lapsed. However, the Bill, in terms of Article 107(4) did not lapse in Rajya Sabha.

3. After the constitution of Eleventh Lok Sabha, the Bill was again referred to the Committee on 28.9.96. The matter was taken up with the Ministry of Labour and they were asked to clarify the latest position in regard to disposal of amendments received from the Members of Rajya Sabha on the Bill. The Ministry, however, did not furnish the required information till the dissolution of Eleventh Lok Sabha on 4.12.97.

4. The Twelfth Lok Sabha was constituted in March, 1998 and the Bill was again referred to this Committee on 25.6.98. A sitting of the Committee was held on 14.8.98 for preliminary discussion to know about the Government's version on the Bill. During the meeting, the Committee wanted to know whether the Ministry of Labour was going to hold any meeting with the representatives of Trade Unions shortly. The Secretary, Ministry of Labour had stated that they had circulated a questionnaire soliciting the comments of various Trade Unions and Employers. If they could reach on a consensus, they could come up before the Committee. The Ministry furnished the comments of the Trade Unions in 22.3.1999 for the consideration of the Committee. Before the Committee could take up the matter further, the Twelfth Lok Sabha also dissolved on 26.4.99.

5. The Thirteenth Lok Sabha was constituted on 10 October, 1999. The Bill was referred to the Standing Committee on Labour and Welfare by Hon. Speaker on 17.2.2000 for the fourth time. The Ministry of Labour was requested to update the material which they had furnished to the previous Committee. The Ministry of Labour vide their O.M. dated 18 July, 2000 had stated that a proposal to include the concept of Workers' participation in Industry in the form of amendment in the Industrial Dispute Act, 1947 has been approved by a Group of Ministers. In the sitting held on 5 October,

2000, the Secretary, Ministry of Labour informed the Committee that the Govt. was actively considering a proposal to include the concept of Participation of Workers in Management in the I.D. Act.

6. The Committee took evidence of the representatives of the Ministry of Labour on 24.1.2001. During the evidence, the Secretary Labour categorically stated that the Ministry of Labour was fully committed to the concept of workers participation in management and supported to carry forward the present Bill. As the comments of Central Trade Unions and Employers were obtained by the Ministry very long back, the Committee desired that the Ministry of Labour should get back to the Central Trade Unions and Employers Groups for an update of their views on the Bill in the light of globalisation and liberalization of economy.

7. In response to the Ministry's request, some of the Central Trade Unions namely, Centre of Indian Trade Union(CITU), All India Trade Union Congress (INTUC), Hind Mazdoor Sabha (HMS), National Labour Organisation, Indian National Union Congress (INTUC), Bhartiya Mazdoor Sangh (BMS), and Employers Groups viz. Coal India Limited., Council of Indian Employers, Food Corporation of India and Oil and Natural Gas Commission had furnished comments on the clauses of the Bill. The Committee considered their comments alongwith the comments of the Ministry thereon in their sitting held on 10 October, 2001.

8. The Committee wish to express their thanks to the Central Trade Unions/Employers organizations for placing before them the clause-wise comments on the Bill. The Committee also wish to thank in particular the representatives of the Ministry of Labour for placing their views before the Committee in connection with the examination of the Bill.

9. The Committee took up the Bill clause-by-clause consideration at their sitting held on 10th October, 2001. The Report was considered by the Committee at their sitting held on 12 December, 2001.

10. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI;
12 December, 2001
21 Agrahayana,1923(Saka)

DR.SUSHIL KUMAR INDORA
Chairman,
Standing Committee on
Labour and Welfare.

CHAPTER-I

INTRODUCTORY

1.1 In a background note, the Ministry of Labour informed the Committee that for raising productivity and promoting industrial peace and creating a sense of involvement of the workers in the enterprise, the Constitution was amended in 1975 and Article 43A was inserted in the Directive Principles of State Policy. This Article provided that “ 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 the industry.”

A. Scheme of Workers’ Participation in Management (1975)

1.2 After the 1975 amendment in the Constitution, the scheme of Workers’ Participation in Management in manufacturing and mining industries was formulated for the first time in 1975. The scheme was meant for implementation at shop and plant levels and covered only those manufacturing and mining units which employed 500 or more workers. The scheme was required to be implemented in both public and private sectors as well as in departmentally run units. Shop and plant levels were assigned specific functions relating to production and productivity, management of waste, reduction of absenteeism, safety maximizing machine and manpower utilization etc.

1.3 The scheme did not lay down norms for the nomination of representatives to the participative councils. This made for considerable confusion. It was left to the management to work out an acceptable formula for representation to the councils. Providing for flexibility in the nomination of representatives seemed to make matters more difficult, except where a single union was the dominant union and interested in such bipartite functioning.

B. Scheme of Workers’ Participation in Management (1977)

1.4 Two years later, commercial and service organizations with 100 or more employees were brought within the purview of a participative scheme, broadly similar to the 1975 scheme. It was applicable to institutions like hospitals, P&T, railways and State Electricity Boards. While both the 1975 and 1977 schemes generated considerable enthusiasm initially, with a large number of organisations constituting such forums. After 1979 there was a sharp decline. Various problems surfaced. Apart from the perennial controversy about the criteria for determining representation to the participative forums, the exclusion of grievance redressal, the restriction to consideration of only work-related issues, the inadequate sharing of information, the lack of a supportive participative culture, the indifference of management, the involvement of second rung union officialdom etc. contributed in different ways to the ineffective functioning of many forums and their subsequent closure.

C. Comprehensive Scheme for Employees' Participation (1983)

1.5 In December, 1983, following a review of the progress of participative schemes in industry, a new scheme was prepared and notified. This scheme was applicable to all central public sector enterprises, except those specifically exempted. It envisaged constitution of bipartite forums at shop and plant levels. In enterprises considered suitable, it was also to be implemented at the Board level. The mode of representation of Workers' representatives was to be determined by consultation with the concerned unions, and parity in representation between the management and unions continued to be the norm.

1.6 The scheme brought within the ambit of the councils a wider spread of work-related issues. At the plant level, the council could discuss issues relating to personnel, welfare, environment and community development, plant operations and functioning, and also take up financial matters relating to profit and loss statements, balance sheets, operating costs, plant financial performance, labour and managerial costs etc.

D. The Participation of Workers in Management Bill, 1990

1.7 Keeping in view the shortcomings of the various schemes implemented from time to time and also the experience gained in this regard, the Government decided to review the concept of Workers' participation in its entirety and to evolve a fresh approach to make workers' participation in management more effective and meaningful. A stage had been reached when some kind of a legislative back-up was thought to be necessary to make further progress in the matter. The Participation of Workers in Management Bill was, therefore, drawn up and introduced in the Rajya Sabha on 30 May, 1990. The Bill propose to make provisions for the Participation of Workers in the Management of undertakings, establishments or other organizations engaged in any industry and to provide for matters connected therewith or incidental thereto.

E. Salient Features of the Bill:

1.8 The salient features of the proposed Bill are as follows:-

- (i) It has been proposed to cover all the industrial establishments or undertakings as defined under the Industrial Disputes Act, 1947. However, the Central Government will have the power to notify the classes of industrial establishments to which the Act will apply with reference to the date specified in the notification.
- (ii) The Central Government will be responsible for enforcing the law in all cases where the Central Government is the appropriate Government under the I.D. Act, 1947 and also in enterprises where the Central Government holds 51% or more of the paid up share capital. In the remaining cases, the responsibility for enforcement will be that of the State Government.

- (iii) The Bill provides for formulation of one or more schemes to be framed by the Central Government for giving effect to the provisions of the law which will include, among others, the manner of representation of workmen at all the three levels and of other workers at the Board level, nomination of representatives of employers on the shop floor and establishment level councils, procedure to be followed in the discharge of the functions of the Councils etc.
- (iv) The Bill proposes to constitute one or more Councils at the Shop Floor Level and a Council at the establishment level. These Councils shall consist of equal number of persons to represent the employers and the workmen. The Appropriate Government shall in consultation with the employer and taking into account the total number of workmen, the number of levels of authority, the number of Shop Floors determine the number of persons who shall represent the employer and the workmen in a Council.
- (v) The Bill also envisages a Board of Management at the Apex level where representatives of the workmen as defined under the ID Act shall constitute 13% and persons representing other workers shall constitute 12% of the total strength of such management. The persons to represent the other workers in the Board of Management shall be elected by and from amongst other workers of the industrial establishment or by secret Ballot. The persons to represent workmen on the Board shall be elected from the workmen of the industrial establishment by Secret Ballot or nominated by the registered trade unions.
- (vi) If any person contravenes any provision of this Act or the Scheme made thereunder he shall be punishable with imprisonment which may extend to 2 years or with the fine which may extend to Rs.20,000/- or with both. It has also been indicated that Appropriate Government by notification appoint such persons as it feels fit to be inspectors for the purpose of this Act.
- (vii) The Bill further provides that a Monitoring Committee comprising equal number of members representing the appropriate Government, the workers and the employers may be constituted by the appropriate Government to review and advise them on matters which arise out of the administration of this Act, any scheme or any rules made there-under.
- (viii) The proposed Bill empowers the Government to exempt any employer or classes of employees from all or any of the provisions of the Act.

- (ix) It has proposed to omit section 3 of Industrial Dispute Act, 1947 which empowers the appropriate Government to constitute works committees consisting of the representatives of employers and workmen engaged in the Establishment to promote measures for securing and preserving amity and relation between the employer and workmen in those Industrial Establishments where 100 or more workmen are employed.

1.9 The Committee took evidence of the representatives of the Ministry of Labour on 10th October, 2001. During evidence, the Committee enquired about the justification to implement the scheme by way of legislation after a long period, particularly in the era of liberalisation and globalisation of trade and business, the Secretary stated:-

“In spite of globalisation and all these changes that are taking place, the relevance of having very good industrial relations is, in fact, becoming more and more important. Definitely, we want improved relations between the workers and the management. This Bill will go a long way in helping us in achieving that goal”

1.10 The Committee have been informed that the Government of India has set up the Second National Commission on Labour under the chairmanship of Shri Ravindra Verma with two main objectives to review the laws for workers in the organized sectors and to suggest “umbrella” legislation to offer minimum level of protection to workers in the unorganized sector. The Commission has been having extensive interactions with all interest groups viz. workers, employers, Government officials, NGOs, Academicians, Labour Judiciary and others. It has also been holding seminars on some key areas related to the Labour sector. During evidence, the Committee pointed out as to whether it would not be a superfluous exercise on the part of the Committee to go ahead with the Bill when the National Commission on Labour have already been functioning for the comprehensive review of all the existing labour laws, the Secretary stated that though the Labour Commission was definitely looking into many aspects but the Ministry of Labour was fully committed to the concept of workers participation in Management and fully supported to carry forward the present Bill. Therefore, the Parliamentary Standing Committee should give their recommendations so that the Bill is cleared by Parliament.

1.11 The Committee note that the Government has set up Second National Labour Commission to suggest rationalisation and review of all the existing labour laws in the organized sector and also to suggest an umbrella legislation for ensuring a minimum level of protection to the workers in the unorganized sector. Since independence, a large number of labour laws have been enacted and most of them have become obsolete and are no longer required. Consequent upon the new technology adopted by the industries, a large number of workers are being retrenched and being rendered surplus and many of them are passing their days in plight and predicament. In the opinion of the Committee, it is not a healthy trend for the growth of national economy. In the wake of globalisation, it is important to make the industry more efficient, cost effective and internationally competitive, it is equally important to create a workforce which is healthy, stable, contented and

highly motivated. The Committee, therefore, desire that the National Labour Commission besides looking into various aspects of National Labour Policy of the Country should also look into the scheme of participation of workers' in Management to have better industrial relations.

1.12 The Committee note that 'The Participation of Workers in Management Bill, 1990', which was introduced in Rajya Sabha on 30 May, 1990 was referred to the Committee for the fourth time on 17th February, 2000. Unfortunately, the Committee could not give its report for such a long time as the Ministry of Labour could not project a clear stand of the Government on the Bill and sought more and more time for holding deliberations with the social partners and affected groups. With the passage of time, a number of changes have taken place in the working methods and procedure due to liberalization, privatization and globalisation of trade and industry. The Committee, therefore, recommend that the co-operation of workers with the management in public undertakings, establishments or other organizations should be strengthened by way of providing umbrella legislation without further delay.

CHAPTER-II

REPORT

2.1 The Committee's recommendations/observations on the clauses of the Bill have been indicated in the succeeding paragraphs.

Clause 1(3): Commencement :-

2.2 It has been provided in clause 1(3) of the Bill that it shall come into force on such date as the Central Government may after giving not less than three month's notice of its intention so to do by notification, appoint and different dates may be appointed for different provisions of this Act for different classes of industrial establishments.

2.3 One of the Trade Unions suggested that the Act shall come into force with immediate effect, from the date of notification issued by Central Government in all industrial establishments all over the country. During evidence, the Committee enquired why the Act is enforceable on different dates for different establishments, the Secretary, Ministry of Labour stated that objective of this clause is to seek the cooperation of the industry for better implementation of the Bill. Instead of becoming too rigid, some lead time would be required and different segments of industry may have to be given different dates keeping in view their difficulties.

2.4 On being suggested that a cut off date should be provided in the clause so that the Act is enforceable to all industries within the prescribed time limit, the Ministry has stated that it is not necessary to give a cut off date. This could be decided by the Appropriate Government in consultation with the employers and Trade union organisations.

2.5 The Committee note that though Clause 1(3) provides minimum of three month's time for the Act to come into force but no outer limit has been prescribed for appointing different dates for different provisions of the Bill to come into effect in all industrial establishments. The Committee are not convinced with the argument put forth by the Ministry that it is not necessary to give any cut off date for enforcing the provisions of the Bill rather the Appropriate Government could decide the time in consultation with the employers and the trade union organizations. The Committee are of the view that the Bill has already been delayed and unless a cut off date is given, the Government may take endless time in bringing into force the provisions of the Act. The Committee, therefore, recommend that the maximum period for enforcing all the provisions of the Bill for all kinds of establishments should be not later than twelve months from the date of issue of notification.

Clause 2:Definitions- Workman

2.6 Clause 2(j) (ii) defines 'workman' which means any worker but does not include any such worker:-

- (i) who is employed mainly in a managerial or administrative capacity, or
- (ii) who, being employed in a supervisory or administrative capacity, draws wages exceeding rupees one thousand six hundred per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly or a managerial nature;

2.7 During evidence, the Committee pointed out that ceiling of Rs.1600/- was prescribed ten years back for determining 'workman.' Since then there has been substantial increase in wage and remuneration of the workman. Asked whether it was sufficient today or does it require enhancement, the Secretary stated:-

“Sir, actually, the amount, which is mentioned here, is one which is also mentioned in the Industrial Disputes Act. So, it would be better that we put a wording in such a way that whatever is the definition in the Industrial Disputes Act would also apply here. So, the amendment of the ID Act is also under consideration and there we are thinking of amending it. So, it would be better if this particular Bill is calibrated to the idea. So, we will use some wording that as defined in the Industrial Disputes Act.”

2.8 In this regard the Chief Labour Commissioner further clarified the concept of workmen as under:-

“Sir, here, representation has been contemplated for two classes of workers. One is workmen, that is, who are at the bottom level, and the other is all other workers. So, all employees will get representation. We have termed them as other workers or workers and then workmen who are at the bottom level. So, this is the conception.”

2.9 The Committee note that under the definition of workman, a person employed in a supervisory or administrative capacity and drawing more than rupees one thousand six hundred as wages per mensem should be excluded from the category of workman. The Committee recommend that the amount of rupees one thousand six hundred wages per mensem should be variable as per the definition of workman provided in the Industrial Dispute Act, 1947 as amended from time to time.

Clause -3: Participation Of Workers in Management Schemes

2.10 This clause deals with formulation of one or more schemes to be framed by the Central Government for giving effect to the provisions of the law which will include among others, the manner of representatives of other workers at the Board level, the nomination of representatives of employers at the Shop Floor and Establishment Level Councils, the procedure to be followed in the discharging of the functions of the Councils etc.

2.11 The Committee asked as to why more than one scheme is needed, the Ministry stated that since all industrial establishments are not uniform a provision has been made in the Bill to formulate more than one scheme, depending on the nature and size of the establishments. However there might be consultation between the trade unions and the employer and they may come to an agreement that there should be one scheme.

2.12 As regards the time to be taken to frame scheme or schemes to make it enforceable, the Ministry stated that the scheme will be framed after the enactment of the Act as early as possible.

2.13 Asked whether there is any proposal with the Government to amend clause 3 in view of the above observation, the Ministry in a written note furnished to the Committee stated that there is no such proposal. A provision regarding consultation with Trade unions and employers will be made in the Rules/schemes.

2.14 On the suggestion made by of Trade Unions that the words 'after consultation with the Central Trade Unions' may be inserted in between 'may' and 'by notification'. The Secretary submitted during evidence as under:-

“Sir, this is only an enabling provision. There might be consultation between the trade unions and the employer and they may all come to an agreement that there should be one scheme.”

2.15 Clause 3 of the Bill provides for framing of one or more schemes for giving effect to the provisions of the Bill. The Committee are of the view that the scheme or schemes to be framed by the Government should be in consultation with the concerned parties. The Committee, therefore, desire that after the words “The Central Government may”, the words “after consultation with Central Trade Unions” may be inserted.

Clause: 4: **Constitution of Councils**

2.16 The Bill proposes to constitute one or more Councils at the Shop Floor Level and a Council at the establishment level. These Councils shall consist of equal number of persons to represent the employers and the workmen. The Appropriate Government shall in consultation with the employer and taking into account the total number of workmen, the number of levels of authority, the number of Shop Floors determine the number of persons who shall represent the employer and the workmen in a Council.

Clause 4(6), reads as under:-

2.17 “The persons to represent the workmen shall be elected by, and from amongst, the workmen of the industrial establishments, by secret ballot or nominated by the registered Trade Unions, in accordance with the scheme.

“Provided that a person representing the workmen shall cease to be a member of the Council when he ceases to be a workman in that industrial establishment and the vacancy so caused shall be filled in such manner as may be specified in the Scheme.”

2.18 The above provision stipulates that the workers representatives shall be elected through and from amongst the workmen of the industrial establishment by secret ballot or nominated by the Registered Trade Unions. In the case of a secret ballot, the representatives may belong to a Union other than the collective bargaining against which may cause rivalry among the unions.

2.19 One of the Trade Union has suggested that whenever there is a union having the status of collective bargaining agent, it should have the right to nominate its representatives on the Council. In other situation election may take place through secret ballot. The Ministry has agreed to this suggestion.

2.20 One of the unions suggested for one seat for lady workers in the council which has been accepted by the Ministry.

2.21 Clause 4 provides that workers representatives on the Councils shall be elected through secret ballot or shall be nominated by Trade Unions. In case of secret ballot, these representatives may belong to union other than the collective bargaining agent, which in the opinion of the Committee may cause internal rivalry. The Committee, therefore, recommend that the following proviso may be added after clause 4(6):-

‘Provided that in an establishment where there is a union having the status of collective bargaining agent, it shall have the right to nominate its representatives in the Council. In other cases, election may take place through secret ballot.

2.22 The Committee further recommend that at least one seat in the Council may be reserved for woman worker, if any.

Clause 4(10)

2.23 In clause 4 sub-clause (10) it has been proposed that the Shop Floor Councils and the Establishment Council shall meet as and when necessary but not less than four meetings of a Council shall be held in a year. The powers and functions of the Shop Floor Council and Establishment Council have been specified in Scheduled I & II attached to the Bill.

2.24 One Trade Union has suggested to substitute the word ‘four’ with ‘twelve’ whereas the employers were of the view that there should not be any condition

imposed about the number of meetings to be held in a year. This should be left open to the Shop Floor or Establishment Council. During evidence, the Committee enquired about the number and frequency of the meetings by the Shop Floor Council and Establishment Council in a year, the Secretary, Ministry of Labour replied that there can be six meetings in a year but there should not be a gap of more than two months in each meeting.

2.25 The Committee note that Shop Floor Councils and Establishment Council can hold four meetings in a year to discuss issues as specified in Schedule I & II of the Bill. The Committee feel that the number of meetings are too small to discuss a large number of issues in a year. Further no provision for gap between one meeting and the other has been made in the clause. The Committee, therefore, recommend that for the words “four meetings” the words “six meetings with a gap of not more than two months between each meeting” may be substituted.

2.26 Clause 4(11) reads:-

“Every Council shall conduct its business in such manner as may be specified in the Scheme:

Provided that in a case where a matter under consideration is beyond the jurisdiction of:-

- (a) a Shop Floor Council, the said matter shall be referred to the Establishment Council;
- (b) an Establishment Council in relation to a body corporate, the said matter shall be referred to the Board of Management.”

Provided further that in a case where the representatives of the employer and the representatives of workmen fail to agree on any matter, such matter shall be referred to the employer for decision.

2.27 The Trade Union has suggested that in case of failure to each agreement, the matter should be referred to an agreed arbitration and not to be decided by employers as provided in the Bill. The Employers are of the view that the proviso to this clause should be modified as under:-

“Provided further that in a case where the representative of the employer and the representatives of workers fail to agree on any matter, such matter shall be referred to the Board of Directors of the enterprise or if there is no Board of Directors, to the employer for decisions”

2.28 During evidence, the Committee wanted to know whether it would not be against the law of natural justice, if the matter is decided by the party which is also involved in dispute, the Ministry in a written note furnished to the Committee stated as under:-

“The objective of this provision of the Bill is to have the matters resolved amicably by the parties themselves without the intervention of any third party as such interventions may complicate matters and defeat the purpose of the Bill”

2.29 The proviso to Clause 4(11) (b) provides for decision to be taken by the employer in case of disagreement between the employer and the workers on any matter. The Committee are of the opinion that it would be against the law of natural justice if the disputed issues are decided by a party who is also involved in a particular dispute. For want of a better alternative, such issues on which no agreement is possible at the Councils shall be referred to the Board of Management, which will be an apex body in which 1/4th Members shall be represented by workers and other workers. The Committee, therefore, recommend that in proviso of sub clause 11 (b) for the words “ referred to employer”, the words “referred to Board of Management as prescribed in clause 6” may be substituted.

2.30 The Committee approve clause 5 without any amendment.

Clause 6: **Board of Management:**

2.31 The Bill envisages a Board of Management at the Apex level where representatives of the workmen as defined under the ID Act shall constitute 13% and persons representing other workers shall constitute 12% of the total strength of such management. It has been provided in sub-clause 3 that the persons to represent the ‘workmen’ shall be elected by, and from amongst, the workmen of the industrial establishment or establishments, by secret ballot or nominated by the registered Trade Unions, in accordance with the scheme.

2.32 During evidence, the Committee enquired whether a person representing ‘workmen’ who has been placed under suspension or whose case is in dispute shall cease to be a Member of Board of Management, the Secretary, Ministry of Labour stated:-

“Sir, supposing a person has been suspended for some act of grave indiscipline. Now it does not look a healthy form of dialogue to have such a person in the Management of that particular enterprise.

2.33 When pointed out that a person sitting in the meeting of Board of Management is sitting not only as an employee but also in the capacity of representative of the union and suggested that he should not be debarred from taking part in the proceedings of the Board, the Secretary stated :-

“ I agree to the wisdom of the Committee. Whatever the Committee decides, we will do it accordingly.

2.34 The Trade Union suggested that at the end of the clause 6(3) a proviso for one seat in the Board of Management for a lady representative may be inserted which has been accepted by the Ministry in principle.

2.35 The Committee recommend that at the end of clause 6 sub clause (3), the following proviso may be added:-

`Provided that one seat in the Board of Management shall be reserved for a woman representative, if any.

2.36 The Committee further recommend that a person representing the “workmen” or “other workers” shall continue to be a member’s representative on the Board of Management during the period of suspension also.

Clause-7-Penalty-

2.37 This clause provides that if any person contravenes any provision of this Act or the Scheme made thereunder, shall be punishable with imprisonment which may extend to 2 years or with the fine which may extend to Rs.20,000/- or with both.

2.38 The Public Sector Undertakings have desired that the provision for penalty shall be restricted to fine only. During evidence, the Committee pointed out that the penalty of Rs.20,000 was suggested more than 10 years back and asked whether this penalty is adequate today or should be enhanced to make it more deterrent. The Ministry in their post evidence reply furnished to the Committee has stated that the existing penal provisions are reasonable and have sufficient deterrent power.

2.39 Clause 7 provides for punishment with imprisonment which may extend to two years or fine which may extend to Rs.20,000/- or with both. The Committee are of the opinion that the penalty of Rs.20,000/- was proposed ten years back and it is not relevant in the present context. The Committee are not convinced with the arguments of the Ministry that the penal provisions are reasonable and have sufficient deterrent power. The Industrial establishments may deliberately violate the provisions of the Act and can pay a fine of Rs.20,000/- very easily. The Committee therefore recommend that in clause 7 for “twenty thousand rupees”, “thirty thousand rupees” may be substituted.

2.40 The Committee approve clauses 8 and 9 without amendment.

Clause 10: Inspectors

Clause 11: Monitoring Committees

2.41 The Committee considered the clauses 10 and 11 of the Bill together in which it has been provided that the appropriate Government may appoint Inspectors for the enforcement of the provisions of the Act and constitution of Monitoring Committees to

review and advise the said Government upon matters arising out of the administration of this Act.

2.42 In a background note furnished to the Committee, the Ministry has stated that it will be extremely difficult to enforce the Participation of Workers in Management legislation without additional staff. At present in the Central Sphere the enforcement of Labour laws is done through the Central Industrial Relations Machinery (CIRM) which has been entrusted to inspect nearly 1.5 lakh establishments under various Labour laws. The periodicity of inspection of any industrial establishment is expected to be annual but with the existing staff strength of the CIRM, it is only possible to inspect these establishments only once in 5 years. The existing sanctioned staff strength i.e. Labour Enforcement Officers (LEOs) is 161 where as the existing staff strength of Assistant Labour Commissioners (ALCs) is 70. In order to enforce the proposed legislation in an effective manner both in the Central and State sphere, the Ministry has done an internal exercise to assess the requirements of funds for enforcing the various provisions of the Bill after it is passed by both the Houses of Parliament and enacted.

2.43 When asked about the estimate of expenditure and number of additional posts required for all the four components, the Ministry of Labour furnished the following details to the Committee:-

		Expenditure per annum (Rs in crore.)	No. of addl. Posts required
1	Units under Central Sphere	260	144
2	Units under State Sphere	4, 30 lakhs	237
3	Central Monitoring Committee	43	24
4	State Monitoring Committee	304	155
	Total	1037	561

2.44 Clause 10(1) of the Bill provides for appointment of Inspectors and clause 11 provides for constitution of Monitoring Committees. In order to enforce the proposed legislation in an effective manner in all the four components, namely (i) units under Central sphere, (ii) units under States sphere, (iii) Central Monitoring Committees and (iv) State Monitoring Committee, the Ministry of Labour has assessed the staff requirement and estimates of expenditure on infrastructure which is estimated to Rs.10.37 crore per annum and 561 additional posts. The Committee are of the view that unless adequate infrastructure is created and the officials are appointed the Scheme of Participation of Workers in management

cannot be implemented effectively . The implementation of the scheme should not be allowed to suffer on account of fund constraints and additional staff. The Committee, therefore, recommend that the Ministry of Labour should approach the Planning Commission for allocation of separate funds and Ministry of Personnel for additional posts for strengthening the enforcement machinery for effective implementation of the Act.

2.45 The Committee approve clauses 12 to 16 without any amendment.

2.46 The Ministry of Labour informed the Committee that they had held discussions with the Trade Unions and employers on the various provisions of the Bill. The Committee hope that the suggestions made by the Trade Unions and Employers will be taken care of by the Ministry while framing the relevant rules. The Committee further hope that the legislation would afford an ample opportunity both for the workers and the employers to sit together and sort out their problems amicably and would thus go a long way in establishing industrial peace .

NEW DELHI;

12 December, 2001
21 Agrahayana, 1923 (Saka)

DR.SUSHIL KUMAR INDORA
Chairman,
Standing Committee on Labour & Welfare