

產 業 關 係 研 究
第14卷 第1號, 2004. 6, pp. 147~163
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# Does the Judicature of India Perplex the Labour Community?

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This paper attempts at the examination of Various Dimension of Industrial disputes in India in general and in particular an evaluation of the role of the Tamil Nadu Government; one of the States of India, in maintaining industrial relations on the mater of strike resorted by its own employees working in Government Departments and educational Institutions. Consequent to the strike, a humble attempt is made to appraise the Supreme Court verdict on the right to strike and its legal, political and economical implications on the entire community of labour. For this paper seeks to provide a fairly detailed account on the role of trade unions in India in a bid to restore their right

► **Keywords:** judicature, India, industrial relations, labor law, strike

## I. Introduction

The development of healthy industrial relations requires the existence of strong and well-organized trade unions and associations of employers in the state. In other words, the attitude of the management towards labour must be cordial, sympathetic, positive, humanistic, and democratic in order to eliminate frustration, animosity and poor industrial relations. Such attitude of the employers will raise the job security of workers and will

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provide an opportunity for labour participation in management. This participation will enable the labour to take part in those management decisions, which affect the terms and conditions of employment. The mutual associations of labour and management will create a congenial atmosphere, free of animosity for consultations, discussions and negotiations, which would ultimately lead to harmonious labour management relations. No doubt, the spirit of collective bargaining and willingness to take course to voluntary arbitration will also recognize equality of status between the two opposing and conflicting groups of divergent interest and lay down the grounds in an atmosphere conducive to mutual understanding, good will, faith, trust and confident for consultations, discussions, negotiations on matters of common interest to both labour and management. Therefore, the scope of industrial relations is becoming more and more wide with the pace of industrial development. In this way, if the management, employer, trade unions and the state itself take keen interest in maintaining good industrial relations by playing their assumed respective roles can go a long way in promoting industrial peace and flourishing labour management relations. Industrial relations is a subject of vital significance in developing countries like India because it helps in creating socialistic pattern of society.

This paper attempts at the examination of various dimension of industrial disputes in India in general and in particular an evaluation of the role of the Tamil Nadu Government, one of the States of India, in maintaining industrial relations on the matter of strike resorted by its own employees working in government departments and educational institutions. Consequent to the strike, a humble attempt is made to appraise the Supreme Court's verdict on the right to strike and its legal, political and economical implications on the entire community of labour. Further this paper seeks to provide a fairly detailed account on the role of trade unions in India in a bid to restore their right.

## II. Concept of Industrial Relations

### 1. Concept

The concept of industrial relations is a part of the science of management, which deals with the human resources of an enterprise. R.A. Lester observes, industrial relations involve attempts at workable solutions between conflicting objectives and values, between

incentive and economic security, between discipline and industrial disputes, between authority and freedom, between bargaining and co-operation. (Richard A. Lester, p.398). According to Henry Richardson, an Industrial relation is the art of living together for the purpose of production (Richardson, J.H., p.26). V.B. Singh observes that Industrial relations are an integral aspect of social relations arising out of employer-employee interaction in modern industries. This involves a study of the state, the legal system and the worker's and employers' organizations at the institutional level, and of patterns of industrial organizations (including management), capital structure (including technology), compensation of labour force, and a study of market forces-all at the economic level (Singh, V.B., 1982). According to Dunlop, Industrial societies necessarily create industrial relations defined as the complex of inter-relations among workers, management and the government (Dunlop, John, 1958). In fact, there are as many as definitions of industrial relations. So, industrial relations are viewed here as the process by which people and their organization interact at the workplace to establish the terms and conditions of employment.

## 2. Global Perspective

Several studies have been conducted on the concept of industrial relations by the researchers. Peculiarities of the labour market made clear that law of demand and supply was not applicable to labour as to commodity (Henney, L.H., 1949), Marshall (1917) said that wages were not governed by demand and supply of labour by a whole set causes which governed demand and supply (Marshall A, 1917). Similar views are found in writings of Taussing, (Taussing, P.W., 1939) and Pigous (Pigous, A.C., 1951). Studies of Taylor (1890-1901), Gilberth (1885-1911) and Cantt (1887-1919) in scientific management contented that pre-determined natural laws governed industrial relations and led to industrial harmony. This theory of scientific management was opposed by the labour as it was considered to be against their organizations, since it ignored human element and regarded workers as machines (Owens Richards, 1953). But the actual work in the field of industrial relations and labour problem was started during the World War I and II. In 1919, International Labour Organization was established. In the preamble to its constitution, the ILO declared that labour was not a commodity. As a result, different agencies like, Industrial Fatigue Research Board, 1918, National Institute of industrial

psychology, 1912 in England and Central Institute for the Science of Labour, 1920 in USSR were established by their respective governments. These agencies made valuable contributions and extended co-operation in the improvement of industrial relations. A few advanced countries like Germany and USA undertook several research projects in human relations in industry at government and university level (Yoder Dale, 1972).

During the early 20th Century researches in human relations by Munsterberg, Benjamin, Selekmen, Burleigh, Gardener, Willios F Wyte, B. Wight Bakke, Elton Mayo, Whiting William, Summer H, Slitcher and F.J. Roeth Lisberger revealed that workers, their unions and businessmen are motivated by social, psychological, political and economic factors. Consequently, a new philosophy of industrial relations emerged placing emphasis on human elements, recognition of worker organizations, collective bargaining, training of employees, job analysis, job satisfaction, improved grievance procedures and labour management committees came into existence. Lester pointed out that no scientific formula could cure the problems of industrial relations as changes were constantly occurring in the balance between self-interest, group interest and community interest as a whole (Lester A. Richard, 1954)

### 3. Indian Perspective

The relationship between employer and the employee in agriculture and handicraft society of ancient India was more personal and cordial and was based on justice and equality. The labours and craftsman were organized in shrenis i.e., categories or guilds to safeguard their professional interests. Kautilya in his book Arthashastra, i.e., economics prescribed systematic rules regarding production of artisans against merchants and vice-versa (Shamastry, R, 1961). The relation between master and servant changed during the medieval period when the artisans were treated as slaves, worked on very low wages under suppressive conditions. Industrial capitalism, which entered the country with the advent of the Britishers, further changed industrial relations and gave rise to a new class, the industrial proletariat. Giri said that industry which had social purpose and was considered as an agency for him. Welfare gave rise to poverty and misery for the working class (Giri, V.V, 1962). The interest evinced by Philanthropists and social workers in labour and their problems forced the Government to give away its attitude of laissez-faire and enact various legislations viz., the workmen compensation Act, 1923; the Trade Union

Act, 1926; the trade Disputes Act, 1929; the Factories Act 1948; the Payment of Wages Act 1936 and the Industrial Establishment (Standing Orders) Act, 1946 to provide benefits to the workers and to maintain industrial harmony. After independence, in 1947, the new idealism of democracy, socialism and planned economic development gave new dimensions in industrial relations. Gupta reported that new dimensions in industrial relations in India has developed due to change in the outlook of workers change in economic and political scene and rise of multiple trade unions (Gupta N.S., 1971) As a result, different legislations were enacted by the state and central governments and provisions were made for the a) preventive and settlement of industrial disputes., b) increase in wages, improvement in working conditions and social security systems., c) promotion of management - labour co-operation. The main emphasis was on tripartism both at the state and central level and the code of discipline was evolved in 1950 which provide for voluntary recognition of trade unions by employers and establishment of grievance redress procedure. Despite all these legislations, industrial relations in the country had not been satisfactory due to non-fulfilment of the promises made by the government and failure of adjudication. Singh further pointed out that authoritative attitude of the employers caused inertia and distrust among the workers. (Singh, S., 1971) While Joshi said that the socio economic problems of the industrial relations in India have been overlooked, and machinery set up for settlement of disputes was complicated with labour laws, which had failed to reduce the multiplicity and rivalry of the union and exploitation of labour by politicians (Joshi, R.D., 1970). Tata Pointed out that easy availability of application had acted as a distinctive to settle disputes and differences mutually by the employers and employees through collective bargaining. He further said that lack of control over inflation, illegal strikes; proper method of selecting representatives of union and it's recognition for collective bargaining as well as protection against uniform labour practices were the causes of Industrial unrest (Tata, H. Naval, 1977). Merchant stressed that workers need understanding, consideration, affection and little love. These things cannot be achieved through money or legislations (Merchant, V., pp 95-99).

#### 4. Concept Of Industrial Relations-Mahatma Gandhi:

The fathers of nation, M.K.Gandhi has rightly said that worker is not merely a means of production but is essentially a human being with a personality, having a sense of

responsibility towards his family, the industry and nation. Thus, with the passage of time, the concept of an industrial worker changed from a cog in machine to a human being with his self-respect. Therefore, the traditional law relating to master and servant relationship in the past differs from the law relating to relationship at employer and employee of the present day. The principle of laissez-faire is now no more the policy of the government regarding settling of disputes between the management and the workers. The courts and industrial tribunals and other authorities settle the disputes not only on the basis of consideration of policy which has great learning towards labour (Sherwani N.U.K., P.7)

Thus the development of sound industrial relation is the very basis on which the development of industrialization depends. Good industrial relations seek to gain co-operation of the two industrial partners i.e. labour and the capital in the field of Industrial production and promote industrial peace. A country cannot progress unless the labour and management adopt a co-operative attitude towards each other so that conflicting interests do not hamper the accelerate pace of productivity. Better industrial relations exert a dominant influence on management and result in ever lasting industrial harmony and peace, better understanding between labour and management, absence of strike, labour turnover, work stoppage and go slow tactics. Strained industrial relations fail to attract good employees and do not provide healthy and peaceful atmosphere with the organization.

### III. Industrial Disputes in India

#### 1. industrial Disputes up to First World War

Though the modern system of industrial production in India was started in the middle of the last century yet there is no worth mentioning disputes in the country. Till the end of last century, the working force was poor and disorganized in that period; the wages were much less than the cost of living. They were economically discontented. This discontentment along with independence movement and the establishment of ILO gave birth to trade union movement. There was marked increase in industrial strikes after the First World War. There was a great economic depression in India during that period. As

a result there was an organized industrial conflict in 1919. In 1924, there was a strike in Bombay city, which was the biggest strike organized and in 1925, again bigger strike was organized in the same city, which caused loss of 11 million maydays. The period of 1929 is highly important in the history of India, in this year there was a violent wave of strikes in the textile mills of Bombay, this had been due to the influence of communism. As a result, the Trade Dispute Act, 1929 was enacted. The industrial environment of the country was relatively peaceful during 1930-37. In 1937, the popular congress government was established and a congenial feeling developed in the working class. But their expectations were not met and as a result, there were 379 and 399 strikes in 1937 and 1939 respectively.

## 2. Industrial Disputes During II world war

In 1939, Second World War was declared and the cost of consumer goods went up high due to inflation and the gap between wage and the standard of living of the workmen was widened. Consequently a number of industrial disputes sprang up. The number of such disputes was 322 in 1940. It reached up to 694 in 1942. In 1940, the striking leaders were arrested and the workers were beaten up. The result was that one lakh and 75 thousands workers went on strike in Bombay and it continued for 40 days. The whole country was affected by the wake of strikes during that period. To check strikes during that period, the British government declared strikes illegal in essential services and made strict conditions to other industrial establishments. Due to this preventive measure, no big strike was arranged during 1942 to 1946.

## 3. Industrial disputes after independence

After independence, a new wave of hope began to flow in industrial environment. The national economy was badly affected due to II world war and the division of the country. As a result the country was again engulfed into industrial unrest. To deal with these situations, Industrial Disputes Act, 1947 came into existence. Both the workers and management should try to settle their differences by mutual negotiation. On the issues of bonus and nationalization, there were number of strikes in the textile industry till 1959. In July 1960, the strike of the central government employees was organized for better

working and service conditions. A number of strikes were arranged during the period 1967 to 1987 in coal mines, news paper industry, banking, railways, automobile, electrical and so on, on various reasons particularly wage increase and payment of bonus. As the government and employers understood the importance of system of collective bargaining through strikes and lockouts and other preventive measures under Industrial Disputes Act, the number of disputes has declined from 1799 in 1987 to 601 in 1998. (Sherwani, N.U.K., pp.124-129)

Thus it can be concluded that the problem of industrial relation is the major hurdle in the economic growth of the country. Therefore concerted steps should be taken to reduce frequency and reverting of industrial disputes and maintain peaceful industrial relations. The examination of industrial relations in India for centuries shows that the workers in industrial establishment and employees in government services were uninterruptly provided the right to strike legally. But now an uncongenial situation has arisen in the industrial relations scenario in India in the wake of Supreme Court's judgment on the matter of strike.

## IV. Strike-Latest Industrial Relations Scenario in India

### 1. Function of judiciary

Two judge Bench of the Supreme Court of India declared a ban on the labour's right to strike without investigating the grievances of the government employees. The court disposed of the matter without discharging its adjudicatory function of examining the central issue under challenge the virus of the ordinance dismissing over one lakh staff sans enquiry under Article 311 of constitutional law of India; sans change to make representations. The court, however, was eloquent about the disruptive illegal, iniquitous, anti-social and unconstitutional dimensions of strikes generally, which it felt, held the public to ransom. The judges observed: strike as a weapon is mostly misused which results in chaos and total misadministration. Strike affects the society as a whole and particularly when two lakh employees go on strike en masse, the entire administration comes to a grinding halt. In the case strike by a teacher, entire educational system suffers; many students are prevented from appearing in their examinations, which ultimately affect



their whole career. In case of strike by doctors, innocent patients suffer, in case of employees of transport services, entire movement of the society comes to a stand still; business is adversely affected and number of persons find it difficult to attend to their work, to move from one place to another or one city to another. On occasions, public property are destroyed or damaged and finally this creates bitterness among public against those who are on strike.

The court counsels labour on its patriotic duty in the prevailing situation, apart from being conscious of rights, we have to be fully aware of our duties, responsibilities and effective methods of discharging the same. For redressing their grievances instead going on strike, if employees do some more work honestly, diligently and efficiently, such gesture would not only be appreciated by the authority but also by people at large. The reason being, in a democracy even though they are government employees, they are part and parcel of governing body and owe duty to the society.

## 2. Distinct opinions on Direct Action

Mr.V.R.Krishna Iyer in his article published in a leading daily opined: (The Hindu, 2.10.2003) Indeed the irrational frequency and impertinent frivolity of intimidatory strikes are self-defeating operations which sound trade unionism never sponsors. But are all strikes illegal, immoral, unjust or liable to be suppressed by state authoritarianism, employer reprisal or judicial allergy by angry negation of writ relief? My understanding persuades me to critique respectfully the Rangarajan ruling, which seems to hold all strikes as productive of havoc in a democratic society and a menace to public interest. Trade unions are a legitimate, lawful instrument of the working class and strikes, under necessitous circumstances, are a strategic weapon, which has legal sanctions under just conditions with due deference, I dissent from the macro-negative proposition based on broad assumptions. "Now coming to the question of right to strike, whether fundamental, statutory, equitable, moral right-in our view, no such right exist with the government employees". The court's dicta have gone beyond government servants and condemned strikes as unjustified on any equitable ground.

Prof. J.A.G. Griffith, in his book 'The Politics of Judiciary', gave reasons to hold that judges, being but human, may not be immune to class bias, never intentional but subconscious in their surrender to partiality. He quotes Winston Churchill The courts hold

justly a high, and I think unequalled pre-eminence in the respect of the world in criminal cases, and in civil cases between men and men, no doubt, they deserve and command the respect admiration of all classes of the community, where class issues are involved, it is impossible to pretend that the courts command the same degree of general confidence. On the contrary, they do not and a very large number of our population have been led to the opinion that they are, unconsciously, no doubt, biased.

No doubt, our country will be transformed if ministers travel less and work more, if judges hear with more business-like thoroughness, bring down the appalling backlog of dockets and pronounce judgments to the point without prolonged procrastination.

### 3. Basic Freedom and Collective Action

Freedom of speech and freedom of association are not mere abstractions or purposeless inanities. Collective action is implicit in this basic freedom. In express terms, there is no freedom to strike writ into the constitution. But collective bargaining for legitimate causes is best served by a creative combination of speech and association, of course, without breach of law and order or transgression of other people's human rights. Once this perspective, sanctioned by constitutional initiative, is correctly and curatively interpreted, industrial jurisprudence becomes a process where both managements and workers have rights. When claims are justly made based on the contribution of labour to the progressive profit-making capacity of industry, an arbitrary refusal even to discuss may lead to tension which may mount to the point of peaceful, though militant expression by a collective withdrawal from work, otherwise called strike.

### 4. Constitutional Reference

The right to form associations or unions is a fundamental right under Article 19(1) of the Constitution of India. Section 8 of the Trade Union Act provides for registration of a trade union if all the requirements of the said enactment are fulfilled. The right to form associations and unions and provide for their registration was recognized obviously for conferring certain rights on trade unions. The necessity to form unions is obviously for voicing the demands and grievances of labour. Trade Unionists act mouthpieces of labour. The strength of a trade union depends on its membership. Therefore, trade unions with

sufficient membership strength are able to bargain more effectively reduced if it is not permitted to demonstrate.

## 5. Strike – A Derivative Right

Strike is only a form of demonstration. There are different modes of demonstration, e.g., go-slow, sit-in, pen-down, tool-down, work-to-rule, absenteeism etc. and strike is one such mode of demonstration by workers for their right. The right to demonstrate and, therefore, the right to strike is an important weapon in the armory of the workers. Almost all democratic countries have recognized this right. It is recognized as a mode of redress for resolving the grievance of the workers. The ILO has had occasions to consider freedom of association for labour as a primary right and collective bargaining followed by strikes, if necessary, as a derivative right.

Mr. V.R. Krishna Iyer, referred in his support, the Gujarat Steel Tube Case (198 2SCC 593), the majority on the Bench held that it was a fundamental flaw to equate illegal with unjust strikes. A strike may be illegal by a technical violation, but need not be necessarily unjustified. It is surprising that the dubious legality of the ordinance, extraordinary in its character and timing, had not awakened the court's jurisdiction into consideration the constitutionality of the executive legislation affecting a colossal number of public servants. Someday, some Bench of the apex court may be conscientised into scanning the constitutional jurisprudence of the Ordinance Raj.

## V. The Supreme Court of India and its ruling on strike

During the months of July-August, 2003, there has been an unprecedented and critical situation arising out of the dismissal of 1.70 lakhs of government employees and trade union leaders in Tamil Nadu. The mass dismissal case is one such case. The strike was prompted by the peremptory actions of the Tamil Nadu Government to alter pension payments-among other grievances. A government refusing to negotiate to resolve a situation made peremptory arrests, declared an illegal 'lockout' commanded the employees to return to work which it had itself made impossible and indulged in a mass dismissal unprecedented in labour-management relations.(The Hindu, 22.8.03, by Rajeev Dhavan)

The Tamil Nadu government employees did not resort to strike for an increase in salary. It was against the reduction of pension benefits. Consequent to legal proceedings, the Supreme Court passed the order that said the government employees and trade unions had no right to go on strike. The judgement in one stroke deprived lakhs of government employees of their basic right to organize and resort to strike. It was contrary to the Fundamental rights in the constitution of India and ILO Conventions to which India was a party. The judgment as a whole denies the legal, moral and equitable right to strike for everyone everywhere. No one is expected such a wide overstatement of the law. Strikes and demonstrations are a democracy's hard-fought weapons against oppression. They cannot be whisked away by a Supreme Court, which has hitherto supported their disciplined use. What is at issues is democracy itself. Strikes empower the disempowered to fight justice in oppressive case when no constructive option is left. It took one and half centuries to discipline strikes into responsible governance. This cannot be wiped out in a few sentences, which should not have been written. This needs urgent review by the Supreme Court itself. (The Hindu, 22.8.03)

The law as it now stands states that servants have no right to strike but masters have the right to strike at the workers by way of lockouts, retrenchments and riding roughshod over the rights, thus firmly laying down the law of inequality not enshrined in Article 14 of the Constitution. The judgment created a furor among the working class in the country and several trade unions have urged the court to reconsider its ruling. The Attorney-General of India had also criticized that there was no justification for the court to give such a ruling when the issue of strike was not at all argued before the court. It was in the context, the Kerala, one of the states in India, NGO Association filed the petition.

The Association, representing a section of Kerala state government employees, said the court ought to have assessed and analyzed the prevailing situation in the entire country before delivering the judgement which would have far reaching consequences and impact over the entire working class and employees in the country. It said the employees went on strike as a last resort after they failed to reach a consensus by all other means. The prevailing situation in different states was that the government would not even invite employees for negotiation or for conciliation till the employees resorted to strike. The employees used to adopt the method of collective bargaining by way of strike in extreme cases where negotiation was not at all possible. It might be pertinent to state that strikes

were internationally accepted as a part of the right of collective bargaining. Further, when the policies and decisions of the government were anti-labour and anti-employees, they had the right to point out the discrepancies in the policies or decisions of the government when employees did not have a say even in matters relating to their pay and other benefits, they resorted to strike when all other forms of demonstration failed to yield any result.

The petitioner said since the judgement only dealt with the situation and rules with regard to Tamil Nadu employees alone, it required reconsideration with a view to giving all concerned an opportunity to address and assist the court in the issue. Whereas, the Supreme court rejected permission to file a petition seeking a review of its judgment holding that employees have no fundamental, statutory or equitable right to go on strike as the strike as a weapon is mostly misuse which results in chaos and total misadministration (The Hindu, 25.9. 2003)

Thus, the Supreme Court lost a good opportunity to review its decision holding that employees have no legal, moral or equitable right to strike even for a just case. As long as strike does not degenerate into violence, it should be considered a legitimate weapon in the hands of trade unions. The ban strikes at the very roots of trade union movement build assiduously over decades.

## VI. Role of Trade Unions

With the Supreme Court recently declaring strikes illegal, leader of key unions held a conference at Chennai on 13.10.2003 and asserted that any court or government cannot take away the right to strike, which was achieved after hard struggle for decades. At the conference, a majority of trade unions, such as All India Trade Union Congress (AITUC), Center of Indian Trade Unions (CITU), Hindu Mazdoor Sangh(HMS), the United Trade Union Center(UTUC) etc. Resolved to call a one-day general strike in Tamil Nadu and observe a 'National Protest Day' during the budget session of Parliament of India. The conference also adopted a resolution urging the Tamil Nadu Government to withdraw its 'black law' providing for summary, mass dismissal of its employees. Leading the trade unionists at the conference, the AITUC general secretary said he would raise the issue of mass dismissal of government employees and the question of right to strike with the Prime

Minister of India at the coming labour conference. Accusing the Centre of offering a 'silent, backdoor support' to the Tamil Nadu government, he insisted that it was an experiment done as a part of the economic liberalization policy at the behest of the political powers in Delhi. The CITU had informed the International Labour Office of the mass dismissals in Tamil Nadu and the ILO had sought the Indian Government's views on the issue.

Declaring that the Supreme Court observation that workers had no moral and legal right to strike was unacceptable, the key trade unionists said right to struggle or protest cannot be a matter of judicial interpretation and pronouncements. Asking if the country could achieve progress without working class, the trade unions of India, in order to defend the right to strike, decided to go on a massive strike, which would paralyze the nation. The present industrial relations scenario in India creating awareness among the trade unionists and realizing the fact that at a time when workers were being deprived of their right, the need of the hour now is a massive trade union movement (The Hindu, 14.10. 2003).

Representatives of the central and state government employees, trade unions and worker' federation served a three-month ultimatum to the central government demanding restoration of their right to strike. The ultimatum was served at a daylong national convention of the employees on 'right to strike' here today, failing which the employees and trade unions will go on a strike. A draft declaration will be submitted to parliament in December listing their demands, including ratification of the International Labour Conventions, which would restore the right to strike. The similar convention will be held by the central trade unions shortly where they would impress upon the government to adopt a constitutional way for restoration of the right to strike (The Hindu, 26.9. 2003). A draft declaration passed at the nation convention organized by the All India State Government Employees Federation called upon the government to rectify the relevant conventions, particularly 151 of the ILO, for according democratic and political rights, including the right to strike to government employees and trade unions. Speaking at the function, the CPI leader, Mr. Somnath Chatterjee asked the government to immediately nullify the impact of the unacceptable verdict. He further urged the government to initiate remedial steps, including a constitutional amendment, to correct 'the wrong'. Quoting the Attorney General of India, Mr. Soli Sorabjee's observation that the court's ruling was 'uncalled for', he made a strong case for the reversal of the judgment, which he said would come handy for all those who would misuse the verdict at a time when jobs were

being trampled upon. 'We have already raised the issue in Parliament; we will continue to do so till the judgment is reversed. But for that a nationwide movement to defend workers will have to be waged outside the House', he said (The Hindu, 26.9. 2003).

The blanket ruling had pushed the trade unions to a new situation where calculated attempts were being made to make inroads into the inalienable right of workers. The trade unions have to press the government to take steps to negate the pernicious impact of the judgment of the Supreme Court on the right to strike. If the centre remained insensitive to the demands of the trade unions, there would be no other alternative for them but to intensify the agitation. The trade unions have to unite and actively participate in a massive Programme of building up mass awareness on the judgment by holding state and local conventions, organizing padayatras, rallies and demonstrations which would culminate with the national strike. Most of the trade unionists opined that the right to strike has not been granted to us by the constitution but has been achieved by the toiling workers by their hard work and hence, cannot be taken away by the Supreme Court. They felt that the judgment was a threat to not only the labour sector but also the democratic set-up. Here is a say from the general secretary of AITUC that it is a part and parcel of the ongoing economic reforms of the centre and the government would like to sell the entire nation shamelessly (The Hindu, 27.9. 2003).

## VII. Conclusion

There is a need to arrive at a consensus to deal with the situation arising out of the recent Supreme Court ruling that government employees had no constitutional, moral or legal right to go on strike. The judgment is not liked by the trade unions in India. The trade union leaders demanded that the centre clarify its stand on the ruling, which affected the entire labour community and asked the government to introduce legislation to restore the right of the workers. It is really a high time to take a fresh look at the legislative, administrative and judicial system in the wake of the new realities of the domestic industrial climate and the new aspirations in the labour market. The co-operation and co-ordination are vital for evolving a common vision to boost productivity, production, competitiveness and the employment creation potential of the Indian economy, which would be in the interest of working class.

No right to go on strike even for just causes came in from a sharp attack from the leaders of the trade unions and made them to discuss the implications of the judgment. They felt it affected not only the trade union movement in the country but also the whole community. The ruling is uncalled for and the sweeping observations made by the judges are of grave concern. In this context, an earlier Supreme court judgment in 1989 holding that the right to strike was an important weapon in the armory of the workers and it has been recognized by almost all democratic countries as a mode of redress for resolving the grievances of workers. It is observed, the judgement, as the most disturbing and iniquitous one, differs from the earlier pro-labour pronouncements given by eminent judges of the apex court like, V.R. Krishna Iyer, A.H. Ahmadi and Y.V. Chandrachud.

To conclude, India cannot claim to be a democratic country if the rights of the workers to organize a strike are not protected. The concept of industrial democracy is faded when one section of the society should adhere to the code of conduct while other would not follow the same code. Considering the adverse effect of the verdict on the organized sector, one could imagine what would be the situation of the workers in the unorganized sector. On appreciating the legal, political and economical implications of the judgement, the government of India should take immediate steps to call for efforts to arrive at a broad based opinion by organizing tripartite machinery to resolve this tangle, in consonance with the international conventions related to the rights of labour.

## References

1. Dunlop, John, *Industrial Relations Systems*, Henry Holt and Co., 1958, Preface, p.VIII.
2. Giri, V.V., *Labour Problems in Indian Industry*, Asia Publishing House, India: Bombay, 1962, p.72.
3. Gupta, N.S., "The Changing Pattern of Industrial Relations in India", *The Indian Journal of Commerce*, Vol.24, Part I, March, 1971, pp.41-47.
4. Henry, L.H., *History of Economic Thought*, New York: MacMillan Co., 1949, pp.399-400.
5. Joshi, R.D., "Industrial Relations in a Sociological Analysis", in B.S. Bhiri, *Dimensions of Industrial Relations in India*, Bombay: United India Publishers,



- 1970, pp.144-155.
6. Lester A Richard, *Labour and Industrial Relations*, 1954, pp.227-234.
7. Marshal A, *Principles of Economics*, London: MacMillan Co., 1917, p.532.
8. Merchant, V., "Employers and Employees Can be on", in B.S.Bhir, pp.95-99.
9. Owens Richard, *Management of Industrial Enterprises*, Illinois: Richard, D. Irwin, Inc. 1953, pp.3-20.
10. Pigous, A.C., *Economics of Welfare*, London: MacMillan Co., 1951, pp.49-641.
11. Richard A. Lester, *Labour and Industrial Relations*, p.398.
12. Richardson, J.H, *An Introduction to the Study of Industrial Relations*, p.26.
13. Shamastry, R, Kautilya Arthasastra, Mysore Printing and Publishing House, 1961, pp.234.
14. Sherwani, N.U.K., *Industrial Relations in India*, I Edition, New Delhi: Anmol Publication Pvt.Ltd., 2000, p.7.
15. Sherwani, N.U.K, Op.cit. pp.124-129.
16. Singh, S, "Leadership Pattern and Industrial Relations", *The Indian Journal of Commerce*, Vol.24 March 1971, pp.50-55.
17. Singh, V.B., "Climate for Industrial Relations" (cited in Memoria, C.B., *Personnel Management*, Bombay: Himalya Publishing House, 1982, p.754.
18. Tata H. Naval, "In pursuit of Industrial Harmony", *An Employee Perspective*, National Institute of Labour Management, 1977, pp.39-50.
19. Taussing, P.W., *Principles of Economics*, Vol.2, 4th ed., New York: MacMillan Co., 1939.
20. Yoder Dale, *Personnel Management and Industrial Relations*, New York: Prentice Hall, 1972, pp.50-51.