

ADMINISTRATION OF THE FACTORIES ACT IN MAHARASHTRA

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The importance of proper implementation of the Factories Act to promote the health, safety, welfare and working conditions of the factory workers need not be over emphasized. It is the responsibility of the factory management to ensure that all the provisions of the Act are observed not only in letter but also in spirit. The intention of the Act is that employers should provide more and better facilities than required by the Act. The article deals with the enforcement of this vital piece of legislation by the Inspectorate of Factories, Maharashtra and refers to various suggestions made by different bodies for effective implementation of the Act.

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Introduction

The Factories Act was passed first in 1881 as a result of the recommendations of the Factory Commission appointed by the Government of Bombay in 1875. It was found inadequate in many respects. However, it recognised the right of the Government to safeguard the interests of the workers by means of suitable legislations. The Act was amended subsequently in the years 1891, 1911, 1922 incorporating several important provisions such as coverage of the Act to establishments employing 20 or more workers, conditions for employing women and children, fixing the daily hours of work, appointment of full-time inspectors etc. Following the recommendations of the Royal Commission on Labour, the Factories Act of 1934 was passed. It aimed at the improvement of working conditions within the factory, reduction of hours of work, provision of rest sheds and creches in big factories etc. The Factories Act of 1948, a comprehensive piece of legislation, contained many important provisions regarding health, safety, welfare, employment of young persons and women, hours of work for adults and children, holidays, leave with wages etc.

Inspectorate of Factories

The responsibility for administration of the Factories Act rests with the State

Governments who administer it through their own Factory Inspectorates. The onus for compliance with the provisions of the Act wholly rests on the occupier of the Factory, though certain obligations are also imposed on workers. The Directorate General of Factory Advice Service and Labour Institutes co-ordinate the work of enforcement of the Factories Act throughout the country, frames Model Rules and suggests amendments to the Act and the Rules in consultation with the State Chief Inspectors of Factories.

The Factory Inspectorate of the Government of Maharashtra mainly enforces the Factories Act along with other Acts like Payment of Wages Act, Cotton Ginning and Pressing Act, Employment of Children Act, Workmen's Compensation Act and Maternity Benefit Act. The Chief Inspector of Factories is the head of the office and is under the administrative control of the Commissioner of Labour who is the head of the department. There are four Deputy Chief Inspectors of Factories, two for Bombay Region and one each for Nagpur and Pune Regions. There is an Industrial Hygiene Section in the Inspectorate which looks into the health hazards faced by the Industrial workers employed in various factories.

Although the Rules made by different State Governments under the Act are more or less uniform, the extent of implementa-

TABLE 1

ENFORCEMENT AUTHORITY FOR FACTORIES ACT IN PUNE, NAGPUR AND BOMBAY IN THE YEAR 1979

Region	The enforcement staff	Staff in field		Factories covered by the Act	Inspector Factories Ratio
		Sanctioned	Actual		
Pune:	(i) Dy. Chief Inspector of Factories	1	1		
	(ii) Inspector of Factories	15	13	3,875	1:298
Nagpur:	(i) Dy. Chief Inspector of Factories	1	1		
	(ii) Inspector of Factories	8	7	1,634	1:233
Bombay:	(i) Dy. Chief Inspector of Factories	2	2		
	(ii) Inspector of Factories	38	27	8,335	1:308

Source: Office of the Chief Inspector of Factories, Bombay.

tion varies depending upon the number of factories and strength of the Factory Inspection Service of a State. There were 14,881 registered factories in Maharashtra under the Factories Act, 1948 as on 31st December, 1978. The sanctioned and actual strength of the field officers excluding Chief Inspector of Factories is given in table 1.

It is evident from table 1 that the Inspector-Factories Ratio was 1 : 298 in Pune, 1 : 233 in Nagpur and 1 : 308 in Bombay. For Maharashtra, the ratio was 1 : 278 in 1977. It reveals the inadequacy of the inspecting staff for implementation of this vital piece of legislation. A comparison of the income and expenditure of the Maharashtra State Factory Inspectorate for the years 1976-77 and 1977-78 reveals that there were savings of Rs. 7,37,307 and Rs. 5,65,438 respectively, during the above period. These savings could have been utilised for strengthening the staff position of the Inspectorate.

Inspections

The Chief Inspector of Factories is responsible for the enforcement of Factories Act in the whole of the Maharashtra State. There are 14 sub-offices in the mofussil. The Inspector is normally required to do the following duties broadly classified as field work and office work:

Field work: (i) Inspection of factories (ii) Enquiry into complaints (iii) Enquiry into accidents (iv) Survey work of factories not registered under the Act (v) Follow up action regarding inspection remarks (vi) To check up whether factory is constructed as per plans (vii) to check illegal overtime working, holiday working, night employment of female employees, (viii) Court attendance (ix) Enquiry into complaints regarding payment of wages, deductions etc. (x) Talks to be

TABLE 2

NUMBER OF FACTORIES VISITED DURING THE YEARS 1973-1977

	Years				
	1973	1974	1975	1976	1977
(I) Factories visited					
Once (a)	8462	9172	9841	11003	14464
Twice (b)	1957	1860	1431	825	609
Thrice (c)	238	264	153	95	45
More than Thrice (d)	8	4	—	—	5
(II) Total Inspected	10663	11300	11425	11923	15123
(III) Total not Inspected	—	—	—	—	—
(IV) Total Factories	10663	11300	11425	11923	15123

Source: Office of the Chief Inspector of Factories, Bombay.

delivered to the workers, supervisors etc. Office Work: (i) Scrutiny of plans (ii) Scrutiny of accident reports and classification, (iii) proposals for legal action, warning etc., (iv) to attend to the workers and their representatives, (v) Advice to the Management, (vi) preparation of reports of complaints, accidents, etc.

The inspector helps the worker in settling his grievances regarding payment of dues, etc. The Inspectorate also extends help to the Maharashtra Welfare Board to collect unpaid accumulations. Safety posters are distributed to the factories free of cost. Training classes are conducted for training the representatives of the factories in regard to filling up of various returns under the laws enforced by the Inspectorate.

The inspectors have to look after the provisions regarding health, safety and welfare, leave with wages and employment of children in factories. There is a direct relationship between the ratios mentioned earlier and the number of inspections carried out by the Inspectorate. The average number of inspections carried out per

factory can be regarded as a right index for judging the efficiency of enforcement of the Act. Inspections of the factories carried out under the Factories Act in Maharashtra during 1973 to 1977 are indicated in table 2.

Table 2 indicates that all covered factories were inspected during 1973-77. Majority of the factories were inspected only once in a year. But normally a factory has to be visited twice in a year for effective inspection. In some cases, more inspections are required, particularly where the managements are known to be slack in implementation of the Act.

Health

Medical Examination: Provision has been made under section 69 of Factories Act to safeguard the health of young persons. A young person even though fit for employment in factories, as adult worker by virtue of his physique and strength, is not considered fit for employment in dangerous operations covered under section 87 of Factories Act, 1948 and under Rule 114 of Maharashtra Factories Rules, 1963. Employees engaged in dangerous operations are

required to be examined by Medical Inspector of Factories and/or certifying Surgeon. These examinations are carried out to determine fitness of an employee to be employed in dangerous operations, allowed to continue work in it or to be suspended temporarily or permanently from employment. Besides this, exposure to other physical, chemical, mechanical and biological hazards and other adverse environmental conditions in industries can also affect health and well being of the workers. To ensure that the health is not affected, it requires periodical medical examination keeping in view the nature of environmental factors.

The medical examination of young persons performed during 1971-77 are given in table-3.

Occupational Diseases: Many of the oc-

cupational diseases are now notifiable under the Factories Act and many of them have been brought under the purview of the workmen's Compensation Act. Some of the field studies conducted by the Directorate General of Factory Advice Service and Labour Institutes have focussed attention on the high incidence of occupational diseases-like Silicosis, coal miner's pneumoconiosis, Byssinosis, Lead poisoning, Mercury poisoning Dermatitis etc., in many industries.

Safety

Trend of Accidents: One of the chief objectives of the Act is to ensure safety of the workers employed in factories. A number of provisions have been made in the Act relating to safety. The number of

TABLE 3
MEDICAL EXAMINATIONS OF YOUNG PERSONS

Year	No. of persons examined	No. of young persons who were granted Certificate under sec. 69(2)(a) of F.A. 1948 to work as children	No. of young persons who were granted certificate under sec. 69 of F.A. 1948 to work as adult.	No. of persons examined and found to be over 18 years.	Rejected for	
					Age & physique	Weak chest
1	2	3	4	5	6	7
1971	238	2	188	36	2	—
1972	171	—	148	22	1	—
1973	120	5	98	13	4	—
1974	114	5	96	13	—	—
1975	57	—	54	3	—	—
1976	113	1	103	9	—	—
1977	29	—	27	2	—	—

Source: (i) Annual Report 1974 and (ii) Office of the Chief Inspector of Factories, Bombay.

accidents and their frequency and severity rate in Maharashtra is given in table 4.

TABLE 4

TOTAL NUMBER OF ACCIDENTS AND THEIR FREQUENCY AND SEVERITY RATE IN MAHARASHTRA

(1971-1977)

Year	Total No. of accidents in Maharashtra State	No. of fatal accidents	Frequency rate	Severity rate
1	2	3	4	5
1971	62,305	75	20.88	2.13
1972	55,983	110	19.53	1.74
1973	57,820	95	19.46	2.02
1974	48,710	126	15.89	1.67
1975	47,673	127	11.97	1.19
1976	66,650	174	20.88	1.93
1977	75,382	118	23.41	2.16

Source: (i) Annual Report 1974 and (ii) Office of the Chief Inspector of Factories, Bombay.

Table 4 shows substantial rise in the total number of accidents during the preceding three years over the previous years. The frequency rate had increased from 20.88 in 1971 to 23.41 in 1977 and also severity rate from 1.93 in 1976 to 2.16 in 1977.

Welfare

Canteen: The position regarding number of factories who have provided canteen and the number of workers taking advantage of the same is shown in table 5.

The Inspectorate notifies all factories employing 250 workers or more to provide

Formula :

Frequency rate = $\frac{\text{No. of reportable accidents} \times \text{one million}}{\text{Manhours worked}}$

Severity rate = $\frac{\text{Mandays lost in respect of reportable accidents} \times \text{one million}}{\text{Manhours Worked}}$

* Manhours worked should include overtime hours.

TABLE 5

CANTEEN FACILITIES IN THE FACTORIES

Year	No. of factories providing Canteen	No. of workers in the factories having Canteen facilities.	No. of factories serving cooked food, Snacks etc.	No. of factories serving only tea, snacks, etc.
1	2	3	4	5
1971	1108	611156	604	504
1972	1105	614227	621	484
1973	1197	653413	639	557
1974	1254	655389	674	580
1975	1335	673080	708	606
1976	1397	651306	673	697
1977	1376	667872	680	679

Source: (i) Annual Report 1974 and (ii) Office of the Chief Inspector of Factories, Bombay.

canteens and it is left to any individual unit, to justify and seek relaxation, if any, from the Government. It is observed from table 5 that the number of factories providing canteen in 1977 has slightly declined over the figures in 1976. However, there is a marginal rise in the number of workers in the factories having canteen facilities. It has been the experience of the Factory Inspectorate over the years that management of factories having only a marginal increase over the figure 250 and where there is problem of space find a way out by retrenching casual or temporary workers thereby bringing the figure to well below 250 workers.

Creche: The data presented in table 6 indicate the number of factories who have

TABLE 6

PROVISION OF CRECHE FACILITIES IN THE FACTORIES

Year	Creches	Children
1971	75	1860
1972	81	932
1973	83	1010
1974	69	1055
1975	62	650
1976	55	652
1977	42	442

Source: (i) Annual Report 1974 and
(ii) Office of the Chief Inspector of
Factories, Bombay.

provided creches and number of children taking advantage of the same.

It is noticed from table 6 that the factories having creches have come down from 75 in 1971 to 42 in 1977. The number of children taking advantage of the creche facilities have also indicated a sharp fall from 1860 in 1971 to 442 in 1977. The reasons may be that the units where creches were existing only in name, with hardly any children, have been able to persuade the female workers to discontinue bringing their children to factories on some consideration. In some cases, there are written agreements while in some others it may be only an understanding. The difficulties in transport simply discourage female workers from carrying young children to the place of work. The reduction in number of creches appears rather conspicuous in textile industry.

Sitting Facilities: Sitting facilities have been provided in a number of factories namely electrical goods manufacturing, pharmaceutical, garment factories, radio assembling factories, biscuit manufacturing, telephone industries etc.

Miscellaneous

Complaints: The Factory Inspectorate receives complaints under the Factories Act, payment of Wages Act, Maternity Benefit Act, Workmen's Compensation Act, etc. Most of the complaints are in respect of non-payment of wages, overtime wages, accidents compensation etc. Out of 2,500 complaints received under different legislations during the year 1977, the Inspectorate disposed off 2,328.

Prosecutions: The Inspectorate takes legal action against defaulting factories and the cases are decided by the Court of Law. However, the Inspectorate prefers the enforcement of the Act through persuasion rather than through penalties. Prosecution proceedings are launched only in cases of serious and repeated breaches. The number of prosecutions lodged and warnings issued to the defaulting factory managements during 1971-1977 are shown in table 7.

TABLE 7

PROSECUTIONS UNDER THE FACTORIES ACT IN MAHARASHTRA

Year	Prosecutions lodged	Warnings issued	Amount of Fine realised (Rs.)
1	2	3	4
1971	660	360	32,001
1972	610	416	26,760
1973	510	494	25,140
1974	817	608	40,390
1975	994	657	65,045
1976	878	764	71,845
1977	988	940	77,000

Source: Office of the Chief Inspector of Factories, Bombay.

The subject-wise breakup of the prosecutions lodged against the management of the factories during the year 1977 is as follows:

1. Safety including those against landlords	93
2. Welfare	10
3. Hours of work	11
4. Licence	137
5. Leave with wages	1
6. Registers, records etc.	660
7. Hazardous occupations	1
8. Procedural matters	75
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Total ...	988

In addition to the above prosecutions 940 warnings were issued to the managements for various contraventions of the Act after obtaining compliance.

Suggestions for better Implementation of the Act:

The following recommendations of the National Commission on Labour (1969) may be considered for better implementation of the Act:

- (1) Effective enforcement of the Act by increasing the frequency of the factory inspections.
- (2) Appointment of factory inspectors with non-technical qualifications to look after routine matters and non-technical provisions of the Act.
- (3) The inspectors besides their enforcement duty act as advisers to the management and assist them in organising training programmes and other activities to bring about safety consciousness.
- (4) Qualitative and quantitative improvement of the Inspectorate by appointing specialists in different disciplines like medicine and chemicals etc.

- (5) Setting up of a Standing Committee consisting of users of machines, machine manufacturers and safety experts to ensure built-in-safety features at the stage of manufacture of equipment and machinery.
- (6) Establishing State councils on the lines of National Safety Council and also Safety Councils for all major industries and those involving hazardous occupation.
- (7) Periodical training courses in safety and accident prevention for Safety Officers and at middle management level.
- (8) Further improvement in the provision of facilities in canteens, creches, rest shelters etc.
- '9) More stringent penal provisions so that the punishment awarded, acts as a real deterrent. Serious and habitual offences particularly relating to safeguarding of machinery and cases of occupational diseases etc. should attract more rigorous sanctions. Serious offences should be made cognizable.

A few management officials, trade unionists and enforcement authorities under the Act, have offered various suggestions for effective implementation of the Act. Some of their suggestions are listed below:

- 0) For adequate and vigorous inspections, the strength of the present State Factory Inspectorate should be increased. It should be so enlarged as to provide at least one inspector for every 150 factories as recommended by the 16th Session of Labour Minister's Conference. Further the strength of the field inspectors should increase correspondingly with the rise in the number of factories.
- (2) Not only the number of inspections but their quality should improve. The inspections should not be of a routine

- nature; it should be thorough in all respects and should have the aim of correcting promptly the deficiencies noted.
- (3) Usually the large sized units are visited more frequently as compared to the small sized units. Most of these visits are normally undertaken to enquire into the accidents. The frequency of inspections should be evenly spread over between the above two categories of units and inspection reports should clearly depict the real position of the factory regarding implementation of various measures relating to health, safety, welfare, working conditions etc.
 - (4) There should be close co-operation between inspection service and the employers and workers. The workers and their representatives belonging to different trade unions should be afforded every possible opportunity for communicating freely with the inspectors. The inspectors, in turn, should keep themselves in touch with the workers and their representatives as far as practicable so that workers may ventilate their grievances and problems.
 - (5) The services rendered by the State Factory Inspectorate particularly in providing safe working conditions in many factories have not been appreciated so far either by the management or the unions. Therefore the actual work done by the Inspectorate should receive wider publicity among the workers and their unions. Further they should utilise to a greater extent the various services provided by the Inspectorate.
 - (6) As the enforcement authority of an important piece of labour legislation, it is necessary that the Chief Inspector of Factories should not be subordinate to the Commissioner of Labour. This subordinate position lowers his status and authority in the eyes of the Inspectorate, employers and the employees. In order to enhance the prestige of the Factory Inspectorate, it is necessary that the Chief Inspector of Factories should be independent of the Commissioner of Labour and directly responsible only to the State Government. As a matter of policy, the Labour Commissioner who deals mainly with conciliation and arbitration work should not control the Inspection Services.
 - (7) The Inspectors should be provided with higher status, better emoluments and attractive service prospects if the inspection service is to deliver the goods. Refresher Courses and Seminars should be arranged more frequently for the inspectors already in service in co-operation with the Central Labour Institute and Regional Labour Institutes. They should also be deputed to more advanced countries to study inspection procedures there.
 - (8) Rigorous steps should be taken for medical examination of employees engaged in dangerous operations by Medical Inspector of Factories and/or certifying Surgeon, covered under different schedules under Rule 114 of Maharashtra Factories Rules 1963 and Section 87 of Factories Act 1948.
 - (9) On many occasions, some of the management representatives disregard the instructions of the factory inspectors and indulge in irregularities for years together. Strict deterrent action should be taken against such employers and the penalties for habitual non-compliance of the Act should be heavier.

(10) In order to reduce the number of industrial accidents, the following measures should receive further attention of the Factory Inspectorate: (a) rigorous enforcement of the safety provisions of the Act (b) advising the management as to the necessity of replacing out dated and worn-out machinery with new ones and their proper maintenance (c) creation of safety consciousness among the em-

ployees by the Officers of the Inspectorate by training worker representatives in industrial safety, giving talks at training courses, seminars etc. (d) actively assisting the management in forming bi-partite safety committees and safety penalns in factories where hazardous operations are involved (e) Examination of lighting installations at the coneplaces during their inspections.

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