

Report on the Working of the Industrial Employment (Standing Orders) Act, 1946 for the year 2013

1. Scope and Objectives

1.1 The Industrial Employment (Standing Orders) Act, 1946 came into force on 23rd April, 1946 and extends to the whole of India. Though the Act applies to every industrial units/undertaking/establishments wherein 100 or more workers were employed on any day of the preceding 12 months, it empowers the appropriate Governments to extend the provisions of this Act to the establishments employing less than 100 workers after giving not less than two months' notice, of its intention to do so, in the official gazette. The Act, however, does not apply to the workmen who are governed by the Fundamental and Supplementary Rules, Civil Service Temporary Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railways Establishments Code or any other rules and regulations that may be notified in this behalf by the appropriate Government.

1.2 The main objectives of the Act, besides maintaining harmonious relationship between the employers and the employees, are to regulate the conditions of recruitment, discharge, disciplinary action, leave, holidays, etc. of the workers employed in industrial units/undertaking/establishments.

1.3 By virtue of the definition of "Appropriate Government" under Section 2 (b) of the Act, the following categories of industrial establishments fall within the purview of the Central Government for the purpose of the Act and the rest under the jurisdiction of the respective State Governments:

- (i) Railways;
- (ii) Mines and Quarries;
- (iii) Oil fields;
- (iv) Industrial Establishments in Major Ports;
- (v) Establishments under the control of the Central Government such as Central Public Sector Companies and Corporations; and

- (vi) Industrial Establishments run departmentally by the Central Government, e.g., Post and Telegraph Workshops, Government of India Presses, Mints, Central Public Works Departments, etc.

2. Main Provisions

The main provisions of the Act relate to:-

- (i) procedure for submission of draft Standing Orders;
- (ii) conditions for certification;
- (iii) date of operation and display of these Orders;
- (iv) procedure for modification; and
- (v) machinery for the implementation of the Act.

3. Procedure for Certification of the Standing Orders

3.1 Section 3 of the Act provides that within 6 months from the date on which the Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer, 5 copies of the draft Standing Orders proposed by him for adoption in his industrial establishment. It further provides that provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the establishment, and where Model Standing Orders have been prescribed, shall be, as far as practicable, in conformity with such model. Therefore, the draft Standing Orders should normally provide for the following matters:

- (i) Classification of Workmen, i.e., Permanent, Temporary, Apprentices, Probationers or Badlis;
- (ii) Manner of intimating to workmen the periods and hours of work, holidays, pay days and wage rates;
- (iii) Shift working;
- (iv) Attendance and late coming;
- (v) Conditions of procedure in applying for and the authority, which may grant leave and holidays;
- (vi) Requirement to enter premises by certain gates and liability to search;

- (vii) Closing and re-opening of sections of the industrial establishment and temporary stoppages of work, and the rights and liabilities of the employer and workmen arising therefrom;
- (viii) Termination of employment and the notice thereof to be given by employer to workmen;
- (ix) Suspension or dismissal for misconduct and acts or omissions which constitute misconduct;
- (x) Means of redressal for workmen against unfair treatment or wrongful action by the employer or his agents or servants; and
- (xi) Any other matter, which may be prescribed from time to time.

Besides, the Act, as amended in 1982, also provides for payment of subsistence allowance to the workmen who are kept under suspension pending domestic enquiry.

3.2 On receipt of the draft, the Certifying Officer shall initiate to certify the Standing Orders in accordance with the procedure laid down in Section 5 of the Act which, *inter-alia*, provides that all the registered trade unions, and in the absence of the registered trade unions, five elected representatives of the workmen, shall be given an opportunity to raise objections to the proposed draft Standing Orders. The Certifying Officer is also required to ensure that provision is made in the Standing Orders for every matter set out in the Schedule applicable to the industrial establishment and the Standing Orders are in conformity with the provisions of the Act. For this purpose, the Certifying Officer shall adjudicate upon the fairness or reasonableness of the Standing Orders and shall then certify them and send, authenticated copies together with the orders referred to above, to the parties within 7 days from the date of his orders. The Certified Standing Orders become enforceable on the expiry of 30 days from the date on which the authenticated copies of the same are sent to the parties provided no appeal has been preferred against them. Certifying Officers and appellate authorities have been vested with powers of Civil Courts for the purpose of receiving evidence, administering oath, enforcing the attendance of witnesses and compelling the discovery and production of documents and are deemed to be civil courts within the meaning of Sections 345 and 346 of the Code of Criminal Procedure, 1973 (2) of 1974.

4. Modification of Standing Orders

4.1 Under Section 10 of the Act the provision exists for modification of the Certified Standing Orders. The Standing Orders can be modified even before expiry of the prescribed time limit of 30 days provided both the management and its workmen agree for it. The employer or the workmen desiring the change can make application for modification to the Certifying Officer. The procedure for submission of application for modification is the same as for initial certification under the Act. When it is proposed to make modifications by agreement between the employer and workmen, a certified copy of that agreement has also to be filed along with application for modification.

5. Enforcement of the Act

5.1 The Act makes provision for appointment of Inspectors for its strict enforcement. The following offences are punishable under Section 18 of the Act and the Central Industrial Relations Machinery is to take suitable action wherever infringements of the provisions come to their notice:

- (i) Failures on the part of an employer to submit draft Standing Orders as per the requirement under Section 3 of the Act.
- (ii) Modification by employer of the Certified Standing Orders otherwise than in accordance with the prescribed procedure, and
- (iii) Any action of the employer, which is in contravention of the provisions of the Certified Standing Orders.

6. Sphere-wise progress of Certification/Modification of Standing Orders during 2012 and 2013

6.1 Sphere-wise details of establishments covered under Industrial Employment (Standing Orders) Act, 1946 along with the progress of Certification/Modification of Standing Orders during the years 2012 and 2013 are given in Table – I. It reveals that in the State Sphere, the percentage of establishments having certified Standing Orders in respect of all or a group of employees at the end of year out of the total number of establishments covered under the Act has increased from 22.63 per cent in 2012 to 26.62

per cent in 2013. Similarly, the number of workers employed in these establishments out of total number of workers employed in the establishments covered under the Act also increased from 45.25 per cent to 55.18 per cent.

7. State-wise progress of Certification of Standing Orders during 2013

7.1 State-wise details of establishments covered under the Industrial Employment (Standing Orders) Act, 1946 and workers employed therein during the year 2013 are presented in Table-II. During this year, 75, 044 establishments, employing 68,89,052 workers were under the purview of the Industrial Employment (Standing Orders) Act, 1946 in the States which submitted the returns. In the beginning of the year, 19,430 (25.89%) establishments employing 37,62,541 (54.62%) workers were having Certified Standing Orders in respect of all or only a group of employees. The applications of 2,667 establishments were pending for certification of Standing Orders with the concerned Authorities at the beginning of 2013. During the year 953 applications were received and 662 applications were disposed off. At the end of the year 2,958 applications were pending with the concerned Certifying Officers. At the end of the year 19,977 (26.62%) establishments employing 38,01,341 (55.18%) workers were having certified Standing Orders in respect of all or only a group of employees.

7.2 Out of the total 2,667 number of applications pending for certification at the commencement of the year, the maximum number 885 (33.18%) applications were pending in State of Punjab followed by Assam 344 (12.90%), West Bengal 338 (12.67%), Karnataka 213 (7.99%) and Uttarakhand 193 (7.24%) . Out of the total 953 applications for certification received during the year 2013 maximum number i.e. 330 (34.63%) were received in the state of Tamil Nadu followed by Karnataka 161 (16.89%) and Uttarakhand 105 (11.02%). Out of these applications the maximum i.e. 268 (40.48%) were disposed of in the State of Tamil Nadu followed by Karnataka 105 (15.86%) and Uttarakhand 82 (12.39%). At the end of the year, 2013 the State of Tamil Nadu had the maximum number of establishments having Certified Standing Orders i.e. 8,215 (41.12%) followed by West Bengal 1,846 (9.24%), Haryana 1,663 (8.32%), Punjab 1,608 (8.05%) and Asam 1,378 (6.90%). However, the number of employees covered were highest in Tamil Nadu i.e. 9,18,549 (24.16%) followed by West Bengal 8,81,668

(23.19%), Assam 5,50,491 (14.48%), Punjab 2,73,676 (7.20%), Haryana 2,60,012 (6.84%) and Rajasthan 2,28,253 (6.00%).

8. State-wise progress of Modification of Standing Orders and disposal of appeals during 2013

8.1 Table – III reveals that during the year 2013 out of 637 applications (246 from previous year and 391 received during 2013) for modification of Standing Orders 325 applications were disposed of. The State of Tamil Nadu alone disposed of 244 applications. Similarly, out of 22 appeals (20 from previous year and 2 appeal received during the current year) against the orders of Certifying Officers, 4 appeals in the State of Kerala were disposed of during the year 2013.

9. Limitations of Statistics

9.1 The report is based on the information received from 19 States and 4 Union Territories whereas the Act extends to whole of India. There are States/UTs/Agencies, such as Arunachal Pradesh, Jammu & Kashmir, Jharkhand, Manipur, Uttar Pradesh and C.L.C. (Central), which have not submitted the returns. Similarly, there are States/UTs, viz. Mizoram, Nagaland, Sikkim and Union Territories of Dadra & Nagar Haveli, Daman & Diu and Lakshadweep, where the Act has not been enforced. As regard the information pertaining to Chhattisgarh State it may be treated as 'NIL' because the Industrial Employment (Standing Orders) Act, 1946 is not in vogue in the State, as the State Act the Industrial Employment (Standing Orders) Act, 1961 is enforced and applicable there similar condition is with state of Madhya Pradesh. In view of this, the report may not be truly representative of all India situation. Similarly, all-India figures in the report may not be truly comparable over the years as the responding States/UTs vary from year to year.

Table – I

Sphere-wise Progress of Certification / Modification of Standing Orders during the years 2012 and 2013

Item 1	Sphere	Year		Percentage Increase or Decrease 5
	State/Central 2	2012 3	2013 4	
1 No. of Establishments covered under the Act	State	89186	75044	-15.86
	Central	..	..	..
	Total	89186	75044	-15.86
2 No. of workers employed in the Establishments covered under the Act	State	8573010	6889052	-19.64
	Central	..	..	..
	Total	8573010	6889052	- 19.64
3 No. of Establishments having Certified Standing Orders at the end of the year	State	20180 (22.63)	19977 (26.62)	-1.1
	Central	..	..	..
	Total	20180 (22.63%)	19977 (26.62)	-1.1
4 No. of workers employed in establishments having Certified Standing Orders at the end of the year	State	3879112 (45.25%)	3801341 (55.18%)	- 2
	Central	..	..	..
	Total	3879112 (45.25%)	3801341 (55.18%)	-2
5 No. of applications pending for certification at the end of the year	State	2787	2958	+6.14
	Central	..	..	..
	Total	2787	2958	+6.14
6 No. of applications pending for modification of Standing Orders at the end of the year	State	279	312	+11.83
	Central	..	..	..
	Total	279	312	+11.83
7 No. of appeals pending against orders of Certifying Officers at the end of the year	State	25	18	-28
	Central	..	..	..
	Total	25	18	-28

.. = Not available due to non-receipt of information

Note. 1. Figures in brackets against items 3 & 4 indicate percentages to corresponding figures against items 1 & 2 respectively.

2. Percentage increase or decrease in case of Central Sphere totals could not be worked out due to the non-availability of information for the years 2012 and 2013.

Table – II
State-wise progress of Certification of Standing Orders during 2013

State/Union Territory	Establishments covered under the Industrial Employment (Standing Orders) Act		Establishments having Certified Standing Orders in respect of all or only a group of employees at the beginning of the year		Number of applications for certification either for all or any group of employees in respect of establishments (i) which had Standing Orders only for a group or groups of employees (ii) which had no certified Standing Orders				Establishments having certified Standing Orders in respect of all or only a group of employees at the end of the year	
	Number	Number of employees covered	Number	Number of employees covered	Pending at the commencement of the year	Received during the year	Disposed of during the year	Pending at the end of the year	Number	Number of employees covered
1	2	3	4	5	6	7	8	9	10	11
1 Andhra Pradesh*	1692	233659	679	132638	11 (0.44)	19 (2.04)	18 (2.72)	12	697 (3.49)	134236 (5.33)
2 Assam	1651	559072	1320	553328	344 (13.71)	35 (3.76)	56 (8.46)	323	1378 (6.90)	550491 (14.48)
3 Bihar	167	12428	-	-	-	-	-	-	-	-
4 Chhattisgarh	Not Enforced		-	-	-	-	-	-	-	-
5 Goa	1974	108992	223	22617	64 (2.55)	1 (0.11)	1 (0.15)	64	224 (1.12)	22617 (0.59)
6 Gujarat	18490	470238	39	19431	98 (3.90)	5 (0.54)	5 (0.76)	98	39 (0.20)	4876 (0.13)
7 Haryana	5834	712494	1604	252597	35 (1.39)	65 (6.98)	59 (8.91)	41	1663 (8.33)	260012 (6.84)
8 Himachal Pradesh	2290	270510	277	34653	157	22	-	179	277 (1.39)	34653 (0.91)
9 Karnataka	1119	502866	717	172516	213 (8.49)	161 (17.29)	105 (15.86)	269	822 (4.12)	195411 (5.14)
10 Kerala	1850	241647	775	87600	42 (1.67)	16 (1.72)	13 (1.96)	45	788 (3.95)	88409 (2.33)
11 Madhya Pradesh	Not Enforced		-	-	-	-	-	-	-	-
12 Meghalaya	7	760	7	747	-	-	-	-	7 (0.04)	760 (0.02)
13 Orissa	553	101909	263	63947	97 (3.86)	2 (0.21)	2 (0.30)	97	265 (1.33)	64480 (1.70)
14 Punjab	10373	551825	1604	273496	885 (35.26)	26 (2.79)	4 (.60)	907	1608 (8.06)	273676 (7.20)
15 Rajasthan	3983	536723	1004	219049	51 (2.03)	36 (3.87)	20 (3.02)	67	1024 (5.13)	228253 (6.00)
16 Tamil Nadu	20812	1254058	7947	912320	36 (1.43)	330 (35.45)	268 (40.48)	98	8215 (41.16)	918549 (24.16)
17 Tripura	91	19149	196	19702	-	91 (9.77)	-	91	91 (0.46)	19149 (0.50)
18 Uttarakhand	1020	96041	684	72372	193 (7.69)	105 (11.28)	82 (12.39)	216	765 (3.83)	78143 (2.06)
19 West Bengal	2202	1126653	1842	881007	338 (13.47)	19 (2.04)	9 (1.36)	348	1846 (9.25)	881668 (23.19)
20 A & N Islands	15	3750	15	3670	-	-	-	-	15 (0.08)	3750 (0.10)
21 Chandigarh	229	14393	63	8172	1 (0.04)	2 (0.21)	-	3	63 (0.32)	8172 (0.21)
22 Delhi	42	4025	42	4025	31 (1.24)	10 (1.07)	1 (0.15)	40	42 (0.21)	4025 (0.11)
23 Puducherry	650	67860	129	28654	71 (2.83)	8 (.86)	19 (2.87)	60	148 (0.74)	30011 (0.79)
Total State Sphere Undertakings	75044	6889052	19430	3762541	2667 (100.00)	953 (100.00)	662 (100.00)	2958	19977 (100.00)	3801341 (100.00)
Total Central Sphere Undertakings	..	..	..	..	..	..	..	..	..	..
Grand Total	75044	6889052	19430 (25.89)	3762541 (54.62)	2667	953	662	2958	19977 (26.62)	3801341 (55.18)

- = Nil, .. = Not Available due to non-receipt of information

* = Figure regarding Andhra Pradesh includes information of 13 District only.

NOTE: 1. Figures in brackets are percentages to total.

2. Percentages in brackets of Grand Total in cols. 4 and 5 as well as cols. 10 and 11 are with reference to cols. 2 and 3.

3. Figures under Col.6 are not strictly comparable over the years as the responding States/UTs vary year to year.

Table – III

State-wise progress of Modification of Standing Orders and disposal of appeals during 2013

State/Union Territory	Number of applications for modification of Standing Orders				Number of appeals against the orders of Certifying Officers			
	Pending at the commencement of the year	Received during the year	Disposed of during the year	Pending at the end of the year	Pending at the commencement of the year	Received during the year	Disposed of during the year	Pending at the end of the year
1	2	3	4	5	6	7	8	9
1 Andhra Pradesh*	1	1	1	1	-	-	-	-
2 Assam	-	-	-	-	-	-	-	-
3 Bihar	-	-	-	-	-	-	-	-
4 Chhattisgarh	Not Enforced		-	-	-	-	-	-
5 Goa	-	-	-	-	-	-	-	-
6 Gujarat	-	-	-	-	-	-	-	-
7 Haryana	-	-	-	-	-	-	-	-
8 Himachal Pradesh	-	1	-	1	-	-	-	-
9 Karnataka	21	61	52	30	5	-	-	5
10 Kerala	17	3	8	12	4	2	4	2
11 Madhya Pradesh	Not Enforced		-	-	-	-	-	-
12 Meghalaya	-	-	-	-	-	-	-	-
13 Orissa	4	-	-	4	-	-	-	-
14 Punjab	-	3	3	-	-	-	-	-
15 Rajasthan	7	6	8	5	9	-	-	9
16 Tamil Nadu	122	306	244	184	2	-	-	2
17 Tripura	-	-	-	-	-	-	-	-
18 Uttarakhand	6	6	8	4	-	-	-	-
19 West Bengal	68	3	1	70	-	-	-	-
20 A & N Islands	-	-	-	-	-	-	-	-
21 Chandigarh	-	-	-	-	-	-	-	-
22 Delhi	-	1	-	1	-	-	-	-
23 Puducherry	-	-	-	-	-	-	-	-
Total State Sphere Undertakings	246	391	325	312	20	2	4	18
Total Central Sphere Undertakings	..	..	..	..	..	..	..	..
Grand Total	246	391	325	312	20	2	4	18

- = Nil

.. = Not Available due to non-receipt of information

* = Figure regarding Andhra Pradesh relates information of 13 District only.

NOTE: Figures under Col. 2 and Col. 6 are not strictly comparable over the years as the responding States/UTs vary year to year