

STRIKES IN INDUSTRIAL CONFLICT: A CRITICAL AND COMPARATIVE STUDY (1992). By V.B. Coutinho. Vidyanidhi Prakashana, Gadag. Pp.10+260. Price Rs. 90.

IN INDIA the problem of industrial conflicts regarding strikes and lock-outs occupy the attention of legislature and scholars. Declaration of the new economic policy and emphasis on planned economic development have focussed attention on work stoppages whether due to strikes or lock-outs adversely affecting production. Trade Unions and Industrial Relations Bill also sought to further curtail the workman's right to strikes and employer's right to lock-out. Be that as it may, Indian statutes which, (i) immunise trade union activities, from restraint of trade or criminal conspiracy, and (ii) seek to regulate strikes and lock-outs, are of pre-constitutional era. These statutory provisions need to be considered in the light of constitutional guarantees of the right to, (i) freedom of speech and expression; (ii) assemble peaceably; (iii) form associations and unions; (iv) practice any profession; and (v) carry on any occupation, trade or business and grant protection against economic exploitation.¹

The book under review² purports to deal with strikes in industrial conflicts. The book is primarily based on the author's Ph.D thesis submitted to the Karnataka University.

The book is divided into ten chapters besides an appendix. Chapter I provides the framework of study. Chapter II deals with the role strike plays in industrial conflict. The author has approached the problem in three ways, viz., (i) the Industrial Revolution and birth of industrial conflict; (ii) class struggle for unity and birth of trade unions; and (iii) strikes in industrial conflict. "Strikes in Industrial Conflict" which is the title of the book also occurs in the title and section of this chapter. Be that as it may, the author feels that the Industrial Revolution was responsible for bringing about a change in, (i) wages of the workers; (ii) decay of the craft; and (iii) new attraction and prospect of factory job. Concentration of masses of workers in new industrial areas, threw open a new variety of workers namely women and children as workers in miserable working conditions leading to depression and disappointment "but the tragedy of the system during the earlier period there was the scant respect for human labour and non-recognition of the working classes as a participant in the process of production."³

Chapter III discusses the British experience of strikes in industrial conflict. Chapter IV deals with historical development of strike law in India in the context of industrial conflict occurrence. Chapter V examines the question of justification or otherwise for legal intervention for resolving industrial conflicts. Here the author has examined the extent to which law can be used to control strikes and also the role of law in settling industrial conflicts. Chapter VI makes an assessment of

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1. S.C. Srivastava, *Industrial Disputes and Labour Management Relations in India* 18 (1994).
 2. V.B. Coutinho, *Strikes in Industrial Conflict: A Critical and Comparative Study* (1992).
 3. *Id.* at 15.

the development in strikes and freedom of association in India and abroad. He is of the view that the Supreme Court of India, by not considering the freedom of strike as a right and concomitant to the right to form associations or unions was, "a step not in the right direction".⁴ The reviewer agrees with the Supreme Court that article 19(1)(c) of the Constitution does not guarantee 'fulfilment of every object' of an association and that there is no constitutional guarantee that 'every association shall effectively achieve the purpose for which it has formed'. Nevertheless, according to the reviewer :

Article 19(1)(c) guarantees collective action, subject to provisions of any law made in pursuance of Article 19(4), in situations where individual action is guaranteed by the Constitution. Accordingly, right to strike is included in Article 19(1)(c) only to the extent to which individual's right of withdrawal of labour is guaranteed under the Constitution and the collective withdrawal of labour does not endanger the interest of sovereignty and integrity of India or 'Public Order or Morality'.⁵

Chapter VII deals with the strike law in India, policy and framework. It also examines the concept of strike. The author, after dealing with cases of pen-down strike concluded that 'pen-down strike' or 'sit-down strike' or 'tool-down strike' would come within the definition of strikes as defined in section 2(q) of the Industrial Disputes Act. These forms of strikes can, therefore, be used for the purpose of achieving results by workmen in terms of their economic demands and bettering their working conditions. The reviewer, however feels that the question whether the so-called 'pen-down' or "sit-in-strike" should be treated as covered by the traditional definition of strike as given in that section, is basically a question of policy decision and presumably invites a decision maker to choose between industrial peace and industrial indiscipline. The 'sit-down' strike includes not only trespass but frequently intimidation and wrongful restraint. It also attracts the property right of the employer.⁶ Chapter VIII analyses illegal strikes in the light of statutory provisions and judicial decisions. Chapter IX deals with the doctrine of restraint of trade, civil and criminal conspiracy. It also discusses the extent of application of British trade union law to India.

In the tenth and concluding chapter, the author has summarised the point discussed in earlier chapters and made certain suggestions. Some of these require deeper consideration.

The book is not confined to theoretical explanations but successfully deals with practical problems of industrial conflict. The present work also focuses attention on historical perspectives and the reasons responsible for shift in attitude of the employer. There is no doubt that the book will be of great use to students, scholars, lawyers and administrators.

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4. *Id.* at 100.

5. See, *supra* note 1 at 246.

6. *Supra* note 1.

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