**BISMA**

**Model Answer Paper**

**MBA IV Sem**

**EMPLOYMENT LAW**

**Section A**

**Q.1 Long Questions (Each carry equal marks)**

 **Attempt any 3**

1. Write the Constitutional Provision of Labour Law?
2. What are the safety provisions under factories Act 1948?
3. What do you mean by ILO and describe the rule of international labour organization?
4. What do you mean by Equal Remuneration Act, 1976 and describe its constitutional provisions under this Act?

**Section B**

**Case study**

**Mahila Sanatkar: a women empowerment case study in India**

**Introduction**

The present article aims to expose and analyze the case of Mahila Sanatkar Mutually Aided Co-operative Society, a women cooperative located in Hyderabad (India) for training and selling traditional handicrafts. The study intends to discuss and systematize the information and records collected throughout 2006. Located in the secluded outskirts of Hyderabad, Mahila Sanatkar has been offering literacy, social and handicraft skill building programs to underprivileged women. The enterprise was set up as part of empowering programs of the Confederation of Volunteer Associations (COVA) seeking opportunities in niche markets and fair trade organizations. The main issues to be analyzed will be the economic and social effects generated by the enterprise which indeed achieved social results though it had a limited economic impact in the life of the beneficiaries’ women. It is noticeable some social results such as skill building, self-confidence enhancement, the mobility acquired by the women, between others. Although having the economic background of international cooperation funded by Cordaid and being technically backed by COVA, Mahila Sanatkar has been unable to reach an economic self sustainable level. Managerial and operational concerns, high drop outs of trained women can be pointed as some of the causes. Moreover, the intricate relations among the cooperative staff, the craftswomen, and COVA lead to constant tensions and problematic definition of roles played by each part. 3 The article will be structured as a study case in order to depict the background and context in which the cooperative is located: the Muslim community of the city of Hyderabad, a growing IT services providing city in south India. Reports written by COVA including the participatory organizational assessment, board meeting presentations and ground observation of the cooperative will provide the information contained in this study. This study intends to look for current theoretical approaches that may explain the causes of this gap between social and economic empowerment its tensions, and trade offs between social and economic benefits.

**Research strategy**

The present work is structured as a case study. Hartley (1995, p. 208-209) cited by Godoy (2006) defines a study-case as: “a detailed investigation, often with data collected during a period of time, about one or more organizations, or groups inside organizations, in order to promote an analysis of the context and the processes involved with the studied phenomenon.” Merriam (1988) describes a study case as a holistic and intensive description of a delimited program, institution, a process, a social unit. To the author a study case denotes that the researcher is interested in the comprehension of social processes in a determined context rather than verifying hypotheses.” 4 Godoy (2006) stresses that study cases are useful in the generation of new concepts and have mainly a qualitative approach. Figures and quantitative data are wishful; however they are not essential part of a study case. Data can be useful but statistic extrapolation is not the purpose of this research strategy. For having engagement of the researcher with the subject allied to ground action during the research process, this study has some characters of action research. Macke (2006, p. 211) suggests that action research may follow four essential stages a exposed here: 1. Exploratory stage: when it is done a diagnosis to identify the problems, the capacity to act and to intervene in the organization; 2. Stage of deepening the research: when the data is collected 3. Action stage: when plans and their execution are done based on the discussion with the groups that participate of the project; 4. Evaluation stage: a feedback stage when the knowledge generated is assessed and if needed the actions are redefined All these stages must have reflection stages associated. A certain degree of openness is desirable once new elements of analysis may be introduced to the research. Even so it is needed clear objectives to avoid lack of focus. 5 This study therefore is a study case. It cannot be considered action research per se once the four stages proposed above are not completely fulfilled. The assessment of the changes implemented has not been fully achieved The data used here comprises primary and secondary data. The primary sources comprise ground observation, minutes of meetings, meeting notes, presentations to the staff and the board of directors of MS. The secondary data entail report of activities, internal participatory assessment report, newspaper articles about the experience, balance sheets, and managerial records. The primary data and ground observation had been done between October 2005 until May 2006. This included meetings with the managers of COVA, and MS, with the designer working at the cooperative, members of the staff. The ground observation of exhibitions had been conducted, as well as some visits to the central unit of production. Due to barriers of language few contacts were done with the member artisans. By March 2006, the results of the analysis of the organization had been presented to the board of directors of COVA. Some of the findings and insights are used in this work. By April 2004 some recommendations on the business model had been done to the management of COVA and MS. At the end of May, the period of study had been finished and it had not been possible to evaluate the result of the changes done.

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| **Solution Key** |

 Ans.1. **Constitutional Provisions of Labour Law –**

**Article-13** Laws in consistent with are in derogation of the fundamental rights .

 “Laws “ includes any ordinance , orders , bye- law, regulations,

 notifications.

**Article-14** Equality before law

 All treatment on the basis of cast , language , religion, sex, domicile

 Gender in equality (Sexual harassment of working women)

 Equal pay for equal work

**Article-15** Prohibition of discrimination on grounds of religion race, cast, sex,

 place of birth

**Article-16** Equality of opportunity in matters of public employment

 Nothing in this article shall prevent the parliament making any law

**Article-19** Protection of certain rights regarding freedom of speech etc.

 All citizens shall have the right-

1. To freedom of speech and expression
2. To assemble peacefully and without arms
3. To form Associations or Unions
4. To move freely throughout the territory of India
5. To practice any profession , are to carry on any occupation trade or business

**Article-21** Protection of life and personal liberty

 Human rights are –

 Right to live with human dignity

 Right to livelihood

 Right to Privacy

 Right to Shelter

 Right to health and medical assistance

 Right to die

 Right to get pollution free water and air

 Right to get education

 Right to free legal aid

 Right to speedy trial

 Prevention of sexual harassment of working women

**Article-23** Prohibition of traffic in human beings and forced labour

**Article-24** Prohibition of employment of children in factories etc.

**Article-39** Certain principal of policy to be followed by the state

 The state shall in particular direct its policy towards securing –

1. That the citizen, men & Women equally have the right to an adequate means of livelihood
2. That there is equal pay for equal work for both men and women
3. That the health and strength of workers, men and women and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to there age or strength

**Article-41** Right to work , to education and to public assistance in certain cases

 (unemployment old age, sickness)

**Article-42** Provision for just and humane conditions of work and maternity

 Relief

**Article-43** Living wage etc. for workers

**Article-43(A)**Participation of workers in management of industries.

Ans.2 **“Factory”** is define in **section 2 (m)** of the Act it means any premises

 including –

1. Where on 10 or more workers are working , or were working on any day of the proceeding 12 months and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on or
2. Where on 20 or more workers are working or were working on any day of the preceding 12 months and in any part of which manufacturing process is being carried on without the aid of power or is ordinarily so carried on

**Provisions regarding safety**- (Section 21 – 35)

**Chapter IV** of the factories Act, 1948

1. **Fencing of machinery (Sec.21)**

According to Section-21 of factories Act, 1948 in every factory , the dangerous parts of all machineries should be securely fenced

1. **Work on or near machinery in motion( Sec.-22)**

Examination should be carried on only by specially trained male workers

Should wear tight fitting clothes

1. **Employment of young person on dangerous machines(Sec.23)**

It has received sufficient training in work at the machine

It is under adequate supervision by a person who has a through knowledge and experience of the machine

1. **Striking gear and devices for cutting of power(Sec.24)**

It provide that suitable striking gear or other efficient mechanical appliance shall be maintained and used to move driving belts and from fast and loose pulleys which form part of transmission machinery

1. **Self acting machines (Sec.25)**

No traversing part of self acting machine in any factory and no material carried on if the space over which its runs any person is liable to pass whether in the course of his employment

1. **Prohibition of employment of women and children near cotton- openers ( Sec.27)**

No Woman and child shall be employed near the cotton openers

1. **Hoists and Lifts (Sec.28)**

Every hoist and lift shall be of good mechanical construction, sound material and adequate strength

1. **Lifting machine, chains , ropes and lifting tackles(Sec.29)**

Its for the purpose of raising or lowering perons, goods or materials including the working gear , chain, rope should be of good construction, sound material and adequate strength

1. **Protection of eyes- ( Sec.35)**

In the course of the process or risk to the eyes by reason of exposure to excessive light, effective screens or suitable goggles shall be provided for the protection of persons employed

Ans.3 **International labour Organization (ILO)**

 Is a united nation agency dealing with labour issues particularly

 international labour standards, social protection and work opportunities for

 all

 To promote opportunities for men and women to obtain decent and

 productive work in conditions of freedom, equity and human dignity

**Role of ILO**

1. Full employment and raising standard of living
2. Ensure employment, in which workers should get satisfaction
3. Policies with wages , hours and condition of work
4. Protection of life and health of workers
5. Provision for child welfare and maternity protection
6. Provision for adequate nutrition, housing
7. Assurance of equality of education and vocational opportunity

**Objectives**

1. To promote and realize standards and fundamental principles and rights at work
2. To create greater opportunities for women and men top secure decent employment and income
3. To enhance the coverage and effectiveness of social protection for all
4. To strengthen tripartism and social dialogue

Ans.4 **The Equal Remuneration Act, 1976**

 The main object of this act is to prevent discrimination in remuneration on

 the basis of sex.

It is the duty of the employer to pay equal remuneration to men and women workers for the same work or work of a similar nature

No discrimination is to be made against women in recruitment and in conditions of service

**DUTY OF EMPLOYER TO PAY EQUAL REMUNERATION (Sec.2(h))**

 “**Same work or work for similar nature**”

The act define “Work in respect of which the skill, effort and responsibility

 required are the same , when performed under similar working conditions, by a man or a women and the difference, if any between the skill effort and responsibility required of man and those required of a women are not of practical importance in relation to the terms and condition of employment”.

**Constitutional Provisions under this Act are** –

**Article-39(a)** States that the citizens, men and women equally , have the right to an adequate means of livelihood.

**Article-39(d)** “that there is equal pay for equal work for both men and women”

**Articles-16(2)-** makes a specific mention that “ no citizen shall on ground only of sex --- be ineligible for or discrimination against in respect of any employment or office under state”.

**Section B**

**Case study solution**

**Conclusion**

1. **The results reached by MS go beyond the mere financial figures**

The MS study case raises questions about the feasibility of self sustained business models for the poorest communities. The social impact of COVA programmes is undoubtly meaningful. As exposed above the activities promoted by COVA enhance self esteem, promote the right of mobility, access to economic means, and some campaigns have been successful to promote voice and participation as well as raising awareness on women’s rights. These benefits are a sufficient argument to say that COVA doing some work for the empowerment of the member artisans of MS. The lack of social impact assessment regarding the intangible and non economic results drives to a situation where staff, COVA, and craftswomen feel lacking motivation. In spite of the financial deficits, some artisans trained by MS run activities single businesses which result cannot be measured. 21 Walker, Fay and Mitchell (2005, p. 48) state that social impact assessment (SIA) should bring about a more ecologically, socio-culturally and economically sustainable and equitable environment’. The first Principle of SIA practice is stated as ‘Equity considerations should be a fundamental element of impact assessment and of development planning’. They also emphasise the need to assess and address distributional effects ‘The improvement of social wellbeing of the wider community should be explicitly recognized as an objective of planned interventions, and as such should be an indicator considered by any form of assessment. Such kind of analysis can draw a more realistic picture over the results achieved by MS making stakeholders visualize the result and purpose of the activities and the broad range of elements that constitute women’s empowerment.

1. **The organizational structure mixing training and production makes it hard to visualize the social impact and have conflictive objectives.**

The current structure of MS mixing training and productions turn difficult to visualize the cost of each single activity and makes harder to visualize the purpose of forming enterprises. In other words, many women just regard MS as a training and social space. To them trainings are enough and there is no interest to take the response of managing an enterprise. 22 Training and workshops have different and sometimes conflictive purposes and have been competing to the use of resources. For example, the design workshops and trainings consume raw materials stocks and generate finished products stocks which, in many cases, couldn’t be sold. This lead to shortage of working capital to the enterprise side, and the products done in workshops are not always meeting the quality standards required. The staff activities are essential for both sides: the enterprise and the trainings. However, the fixed wage basis does not instil the workers to emancipate from COVA. Fixed salaries can be paid for training purposes but when thinking about a small scale business, the remuneration strategy has to be different. MS needs a strategic definition to what is the core activity done. It is possible to keep offering trainings and forming micro enterprises, however these activities has to be separated, if possible trainings and production should happen at different venues. The current study can be useful for donors to define a clear scope of activites and duration of a grant. It is needed also to observe the networks that the NGOs have beside the grant conceded. In the MS case some grants created a perception that the enterprise could rely just on this soured of money, resulting more in dependence than emancipation. For NGOs and for social projects, the MS experience can be important to clarify the importance of assessment methodologies and data to track results and monitor goals established for interventions.