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THE ALGORITHM AS AN EMPLOYER: CAN INDIAN LABOUR LAW PROTECT GIG WORKERS?

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INTRODUCTION

A delivery worker or labourer receives an order through an app. If he accepts it, then travels several kilometres and gets paid after completing the delivery. There is no manager standing beside the worker and no official office to report to. This raises a simple, important question: when technology controls a worker's day-to-day life, can that platform still be treated only as an intermediary?

The growth of the gig economy has changed the way of working in India. Delivery workers, cab drivers and other platform workers now play important roles in the labour market. The Code on Social Security, 2020 newly recognises “gig workers” and “platform workers”.² However, recognition alone cannot solve problems related to income, social security, and working conditions. The key question is whether Indian labour law can protect workers when an algorithm, rather than a human supervisor, exercises control.

FROM EMPLOYEE TO GIG WORKER: A CHANGING WORKPLACE

Traditional employment usually involves an employer and an employee, with regular wages and some form of supervision. But Gig workers do not follow this model. A delivery worker and a cab driver are described as parties to the particular work; this also does not follow a traditional method. Usually, this is a very debatable one.

Indian courts have traditionally looked at the real relationship between the parties, rather than only the words used in a contract. In *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, the Supreme Court recognised the importance of the master-servant relationship and the element of control in determining whether a relationship is an employment.³ In *Silver Jubilee*

Tailoring House v. Chief Inspector of Shops & Establishments, the Court also explained that the degree of control is an important factor, although the entire relationship must be considered.⁴ These principles become very interesting in the gig economy. If a platform controls a worker's orders, ratings, incentives and even access to work, the question is whether the label "independent partner" should be enough to decide the worker's legal status.

FROM EMPLOYEE TO GIG WORKER

The Code on Social Security, 2020 is an important step because it specifically recognises gig and platform workers. Sections 113 and 114 provide for registration and social-security schemes for such workers.⁵ These schemes may cover accident insurance, health and maternity benefits, old-age protection, disability cover and other benefits.⁶ Even though these provisions mostly deal with social security, they do not answer larger questions, such as whether a platform is treated as an employer and whether it has complete control over a worker. This question creates a major gap between legal recognition and practical protection. Here, a worker is recognised as a gig worker but still does not enjoy the protections and social security afforded to employees.

THE ALGORITHM AS AN EMPLOYER

In a traditional workplace, a manager gives instructions, supervises all assigned work, and may take disciplinary action. In a platform-based workplace, an algorithm can perform all the tasks mentioned above. For example, a delivery worker may receive orders automatically and have a fixed time to complete the task; he then earns performance-based incentives, and a lack of customer reviews means he loses his earning potential. The important point is that control does not disappear simply because it is exercised through technology. An algorithm is created and used by the platform. Therefore, the platform should not be able to avoid responsibility merely by claiming that the application, rather than the company, made the decision. This is where the traditional judicial approach to employment becomes relevant. The law should look at the actual nature of the relationship and the extent of control exercised over the worker, rather than relying solely on contractual labels.

JUDICIAL RESPONSES

The concerns of gig workers have also reached the Supreme Court in the case of *Indian Federation of App-Based Transport Workers (IFAT) v. Union of India*. The case was brought on behalf of app-based transport workers and primarily concerns their right to social security

benefits. It also involves the working conditions and legal position of workers connected with platforms such as Uber and Zomato.⁷ The matter is still before the Supreme Court and has not yet reached a final decision.

The *IFAT* case has not yet recognised gig workers as employees, but it highlights the new legal challenges created by platform-based work. It also shows that the traditional distinction between an “employee” and an “independent worker” may not suit the digital economy. When platforms influence how workers work and earn, the law should look beyond contractual labels.

RIGHTS ON PAPER VS. REALITY ON THE ROAD

Legal recognition is meaningful only when the workers can actually use their rights. A platform worker could rely on the application for his daily bread, but his earnings could fluctuate due to orders, incentives, ratings and working conditions. Account deactivation is another issue. If a worker suddenly loses access to an application, the consequence could be a loss of income. The worker could also find himself in difficulty understanding why the decision was made and how to challenge it. This is why future labour protection must include not only social security, but also transparency, human review and effective grievance mechanisms.

THE WAY FORWARD

Indian labour law need not regard every algorithm as a legal employer. However, it ought to acknowledge that technology can exert a degree of control comparable to that of conventional management. Platforms ought to be required to provide workers with clear explanations for significant decisions, such as suspensions or deactivations. Workers should be able to obtain a human review and an easy grievance process. Social security schemes should likewise become accessible in practice, rather than existing merely as rights on paper.

CONCLUSION

The question is no longer whether technology has entered the workplace, but whether labour law is ready to enter the algorithm. The Code on Social Security, 2020 has recognised gig and platform workers, but more protection is needed in practice. Labour law should focus on the actual control exercised by platforms rather than contractual labels. Technology should not be used to avoid responsibility, and workers’ rights should remain protected even when control is exercised through a screen.

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² Code on Social Security, 2020, No. 36 of 2020, §§ 2(35), 2(61), Acts of Parliament, 2020 (India).

³ *Dharangadhra Chemical Works Ltd. v. State of Saurashtra*, 1957 S.C.R. 152 (India).

⁴ *Silver Jubilee Tailoring House v. Chief Inspector of Shops & Establishments*, (1974) 3 S.C.C. 498 (India).

⁵ Code on Social Security, 2020, No. 36 of 2020, §§ 113–14, Acts of Parliament, 2020 (India).

⁶ *Id.* § 114.

⁷ *Indian Federation of App-Based Transport Workers (IFAT) v. Union of India*, W.P. (C) No. 1068 of 2021 (Sup. Ct. India).