

Date: 27th January, 2015

To

**Shri. Apurva Chandra,
Principal Secretary, Industries,
Govt of Maharashtra**

Subject: Concerns and recommendations pertaining to 365 days working license in Maharashtra

Dear Sir,

It was indeed our privilege to interact and discuss various retailers' concerns on 20th January, 2015. Thank you for sparing your valuable time, interacting with us patiently and giving us your valuable inputs.

As was discussed during the meeting, we, hereby, submit our concerns for obtaining 365 days working license in Maharashtra.

Weekly Closure of Shops and Establishments – Under Shops and Establishment Act

Background

The genesis of weekly rest of 24 consecutive hours is derived from Convention 14 of International Labour Organization 1921. India has ratified the Convention in the year 1923 and subsequently the statutes are framed considering the spirit and object of the same.

The Convention further provides as “the whole of the staff employed in any industrial undertaking, public or private, or in any branch thereof shall, enjoy in every period of seven days a period of rest comprising at least twenty-four consecutive hours”.

After 80 years from the Convention, the environment has changed substantially, and it requires re-examination of weekly closure of the business subject to complying the hours of work in a week. The spirit of the act is to provide a weekly off to the employees/workers and if the same is provided then the shops/establishments shall be exempted from the weekly closure. The object of the convention is to protect the labour from exploitation by the powerful employers of that time.

Present Status

Some states like Karnataka, Uttar Pradesh, Delhi and Madhya Pradesh have already issued the guidelines to exempt the shops and commercial establishment from weekly closure and granting the permissions subject to the employers complying with the statutory requirements.

Madhya Pradesh Government has granted permission to remain open for 365 days, to members of Retailers Association of India. Madhya Pradesh Government gave recognition to the fact that Retailers Association of India accepts retailers as members only if the said retailers issue a cash receipt to every single customer who buys from them.

Section 4 of the Bombay Shops and Commercial Establishments Act 1948 confers power to state government to exempt class of establishments from the provision of the act.

Recommendations:

The Delhi Government made the following additions to the Delhi Shops and Establishment Act, 1954:

1. Unless otherwise exempted, shops can be open till 11 pm
2. Overtime wages shall be paid to employees at double the normal rate
3. Shift working should be in such a way that neither an employee is required to work in the night shift only, nor overlapping of shifts is permitted
4. If a shop is open for 7 days a week, weekly off shall be given to employees in rotation.
5. The employees working on a national holiday shall be given a compensatory holiday in addition to overtime wages, in lieu thereof
6. No woman shall be allowed to work during the hours prohibited
7. Unless otherwise exempted, the employer shall comply with all other provisions of the Act
8. The employers and market associations will be responsible for the compliance of condition on which the exemption is granted. In case of violations, government will take action against employer.

We would like your good office to look at the above additions which Delhi Government has made in the Delhi Shops and Establishment Act and adopt a similar model in Maharashtra. Please find the concerned notification issued by the Delhi Government attached herewith. In this way:

- Labour interest will continue to be protected as envisaged under Labour Laws.
- India, which is one of the fastest growing economies in the world, with a burgeoning middle class fuelling economic growth through retail consumption, owes much to Maharashtra for its economic progress. The organized retail sector in Maharashtra will get a boost.
- The retail sector is the fastest growing sector in terms of employment generation. While ensuring that the employees get their legitimate weekly holiday, the system enables employment of 20% additional workforce.



RETAILERS ASSOCIATION OF INDIA

- Its benefits spread to all strata of society, both institutional and social. It benefits the weaker sections, scheduled castes and scheduled tribes alike.
- Women constitute a significant percentage of the employee workforce in retail sector. This will be a step for further empowerment of women in the state.
- 365-day-a-year store operation brings greater convenience and better service to the customer.
- Contributions from modern retail flow to exchequer due to increased transparency. Modern retail sector is the fully statutorily complied sector through number of permits and licenses.

We hope and believe that you shall receive our representation favourably and take a forward action in this regard.

Yours sincerely,

For Retailers Association of India

Gautam Jain
Head – Advocacy & Finance

Subject : Retailers should be allowed to stay open every day of the year to cater to the needs of the consumers provided that the employees have well defined working hours in shifts and the employees are given compensatory weekly offs on a preferential basis.

Background

The genesis of weekly rest of 24 consecutive hours is derived from Convention 14 of International Labour Organization 1921. Indian has ratified the Convention in the year 1923 and subsequently the statues are framed considering the spirit and object of the same.

The Convention further provides as ‘the whole of the staff employed in any industrial undertaking, public or private, or in any branch thereof shall, enjoy in every period of seven days a period of rest comprising at least twenty-four consecutive hours’.

After 80 years from the Convention the environment has changed substantially, and it requires re-examination of weekly closure of the business subject to complying the hours of work in a week. The spirit of all Acts is to provide a weekly off to the employees/workers and if the same is provided then the shops/establishments shall be exempted from the weekly closure. The object of the convention is to protect the labour from exploitation by the powerful employers of that time.

Present Status:

Every State Government has its own Act on governing the Shops and Establishments. All these State Legislations on labour were formulated on the objects of the ILO conventions. Accordingly, every Act has the restrictions on the Opening and Closing of the Stores, Weekly Holidays, and Employment of Women etc. In most of these enactments there is no provision regarding exemption from weekly closure. Over the period, the dynamics of the economy has changed and Shops are required to remain open on all the 7 days of the week to cater the working class, which was growing in line with the population.

The circumstances have changed considerably from the dominant employers to dominant workers and the collective bargaining has gained considerable achievement. Further the advent of malls and organized retailing, the sphere of workforce has been elevated. Some progressive states like Delhi, Karnataka, Uttar Pradesh, Madhya Pradesh have already issued the guidelines to exempt the shops and commercial establishment from weekly closure and granting the permissions subject to the employers complying with the statutory requirements.

Madhya Pradesh Government has granted permission to remain open for 365 days, to members of Retailers Association of India. In exercise of the powers conferred by sub-section (2) of section 3 of the Madhya Pradesh shops and Establishments Act, 1958 (No.25 of 1958) the state

Government hereby directs that the provisions of section 13 of the said Act shall not apply to class of establishments, who are member of Retailers Association of India. A copy of their Notification is attached.

We request your good office to allow retailers to keep their stores open 365 days in a year (subject to appropriate conditions for grant and verification of weekly offs, compensatory offs and such other provisions as may be necessary for labour welfare), initially for 5 years and thereafter on automatic renewal basis. The proposal has the following merits: -

- Labour welfare will continue to be protected as envisaged under Labour Laws.
- India, which is one of the fastest growing economies in the world, with a burgeoning middle class fuelling economic growth through retail consumption, owes much to Maharashtra for its economic progress. The organized retail sector in Maharashtra will get a fillip.
- The retail sector is the fastest growing sector in terms of employment generation and around 35 million people are employed in the sector. State will gain through increased employment.
- Its benefits spread to all strata of society, both institutional and social. It benefits the weaker sections, scheduled castes and scheduled tribes alike.
- 365-day-a-year store operation brings greater convenience and better service to the customer.
- While ensuring that the employees get their legitimate weekly holiday, the system enables employment of 20% additional workforce.
- Women constitute half the employees workforce in retail sector. This will be a step for further empowerment of women in the State.
- Retail workforce primarily comprises local 10th and 12th standard pass-outs and is employed at the front end level. They have very limited employability in any other sector. Therefore, the measure would reduce the ranks of the unemployed in the State.
- Due to computerization and increased transparency, modern retail flow brings increased revenues to the exchequer in shape of VAT and other levies.

We would like to humbly submit that such a positive step by your government would go a long way to provide a further impetus to economic growth in the state and also see major retail expansion plans in the state. This would fuel the growth of retail in the state of Maharashtra and grant employment opportunities and respectable working environment to a mass of local population.