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Target archaic laws, not individuals, say IT companies

Deepshika Monga & PP Thimmaya, TNN Feb 26, 2008, 12.12am IST

NEW DELHI/BANGALORE: Mukesh Ambani, Ratan Tata or Kumar Mangalam Birla should start consulting their lawyers. The next time some mishap takes place in their branch office in a remote location, they may have to face criminal proceedings. That's been the industry's reaction to the Supreme Court's decision upholding initiation of prosecution proceedings against Nasscom president and former HP GlobalSoft managing director Som Mittal in the case of rape and murder of a BPO employee.

The IT-BPO industry, in particular, is questioning the extent to which a CEO can be held liable. Industry players are advocating a relook at the laws, arguing it's not just an IT-BPO industry issue.

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Laws

Som Mittal

Quattro Solutions MD Raman Roy says, "The Karnataka labour department looked at HP's processes and said that everything is fine and the same department filed a case against Som Mittal. It happened because the law requires it.

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The laws were made when there were 10-people organisations. We have to initiate a debate on how good these laws are and relook at criminal liability, responsibility and negligence." The law which Mr Mittal has fallen foul is an archaic piece of legislation called the Karnataka Shops and establishment Act 1961 which prohibits employment of women on night shifts in the establishments which it covers.

According to officials in the Karnataka Labour Department, the act was amended in 2003 to facilitate working of women employees during night shift - 8 pm to 6 am only for the IT/ITeS industry, subject to certain conditions. All IT companies which came under this purview had to provide the complete details to the local labour commissioner and there are certain conditions to be met with regard to women employees and one of them include free transportation facilities for women with adequate security. It was on this count that HP Globalsoft and its CEO is being prosecuted. Source say there is no such precedent in Karnataka. According to the law, explains Supreme Court lawyer Pavan Duggal, if there is contravention by a company, the person "running the company" is held liable. The management has two exit routes: either claim to have no knowledge of the contravention or submit that it took place despite exercise of due diligence. "The law is currently vague and it needs to specify what 'knowledge' means as well as parameters of due diligence. Since the IT industry has different requirements, the laws need to be sensitive to it or it will hamper the growth of the industry," Mr Duggal added.

Infosys Technologies' director HR, T V Mohandas Pai, says the current laws need to be amended so that all security issues are designated to a particular individual and a CEO should not be held responsible for all the issues of the company. This could also set a precedent as there was a similar incident involving Wipro BPO in Pune.

SPOTLIGHT

Growth push



Two good! FM, RBI gov team up for India at Davos summit

This is the first time the two will be seen together in Davos. Rajan did not travel to the Swiss resort last year and Jaitley had not become FM in 2014.

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HP employee (Bangalore)

26 Feb, 2008 08:59 PM

I appreciate the comments of Mr.Narsimha Rao, Vishakapatnam. Som will get away either with a petty fine or nothing.After all we are Indians and we will prove ourselves once again, thanks to the Indians at higher positions who have the power to control and influence things. The good end to this story would be something like "Next time a person becomes CEO of the company he should know the meaning of the being actually the CEO and the kind of Pressure he can come under and kind of responsibility that one is accounted for.It's not simply moving like a blue-collared professional trying to put up a show. The biggest assets to an MNC are the People who can be role models to the employees and can inspire them apart from Money.And what HP lacks is Role Models(of course Indians) and we have people like Som Mittal and his bullshit management who are just filling their pockets with the commision from the Cafeteria/backdoor entry employments/Cab services etc and this is what it would result in.

Narasimha rao (Visakhapatnam)

26 Feb, 2008 08:29 AM

It is good that an incident involving high profile CEO of a high profile company has brought the attention of think tank of India to the presence of archaic laws that throttle the individual in our country. Our laws are not only archaic but discriminatory too. While permitting lakhs to be gambled in the name of raising investment avenues our laws punish them who play cards for money in the security of their own home. What all these CEOs are arguing for is genuine and legitimate too. When it comes to getting land allotted to them at subsidised price - almost for free in most cases - they do not think of the fairness. We talk of open market economics when it comes to being benefitted but when it comes to the issue of acquiring land for industry land we are mere spectators when the same archaic legislation is being used to grab land for the industry. This kind of a moral stand of the intellectuals is the strong foundation or support for the continued existence of the many archaic laws. Incidents of this nature should make us realise the reality and I hope the reality dawns on us.