

Welcome to the fifth edition of the e-Bulletin (Volume VIII) brought to you by the Employment, Labour and Benefits practice group of Khaitan & Co. This e-Bulletin covers regulatory developments, case law updates and insights into industry practices that impact businesses from a sector agnostic standpoint.

## Labour Codes: Story So Far

In this section, we help you in understanding the developments that have taken thus far on the implementation of the 4 labour codes on wages, social security, industrial relations, and occupational safety, health, and working conditions, which received the Presidential assent between the years 2019 and 2020. The Government of India has, through a series of notifications dated 21 November 2025, brought into effect the 4 labour codes. We have covered this aspect in detail in our [ERGO](#).

The codes consolidate and consequently replace 29 Central labour laws and bring about a more cohesive and modern framework for compliance. The consolidation exercise in the form of the labour codes does bring with it certain changes in the earlier labour law regime. The digitization of procedures (relating to registration and intimations) and the concept of deemed registration (in case authorities do not register the establishment within the specified timeline) are seen as a positive impact on the ease of commencing business as well as the ease of doing business. Similarly, the substitution of prosecution-oriented framework with facilitation process, whereby an employer would be given an opportunity to rectify any non-compliance, heralds an important change in the approach of the government.

Set out below are the updates that we have seen on the labour codes front, recently:

- 1. Issuance of FAQs:** On 30 December 2025, the Central Government has released the FAQs on labour codes, and we have covered this aspect in detail in our [ERGO](#). Further, clarifications have been put forth by other authorities including the Employees' State Insurance Corporation (ESIC), through multiple circulars referring to the definition of 'wages' and emphasizing the requirement of the employers to register additional employees who may potentially be covered because of the revised definition of 'wages'. In March 2026, the Central Government specifically also released FAQs to the [Code on Social Security, 2020](#) (SS Code), [Code on Wages, 2019](#) (Wages Code) and [Occupational Safety, Health and Working Conditions Code, 2020](#) (OSH Code).



- 2. Clarification on gratuity:** The Institute of Chartered Accountants of India has released a set of FAQs addressing key accounting implications arising from the implementation of the new labour codes. These FAQs note that any increase in gratuity liability due to the new labour codes must be recognised as an expense in the profit and loss account for the interim financial statements/results for the period ending 31 December 2025, in line with the applicable accounting standards.
- 3. Issuance of rules:** States such as Gujarat and Mizoram appear to have released final rules under some of the labour codes. In respect of other states, 2 out of a total of 36 states and union territories are yet to publish draft rules on Wages Code, and 1 state has not released draft rules on the OSH Code, Industrial Relations Code, 2020 (IR Code) and SS Code. In the month of May 2026, the government of Himachal Pradesh, Maharashtra, Madhya Pradesh, Goa and Haryana have released the draft rules pursuant to the labour codes.
- 4. Issuance of final rules and allied notifications by the Central Government:** The Central Government has brought into effect the final rules under the labour codes on 8 May 2026. In addition, model standing orders and several other enabling notifications have been issued, including those relating to the establishment of the workers' reskilling fund and the levy and collection of cess in respect of building and other construction activities. These central rules will be relevant for those organisations for whom the appropriate government under the Labour Codes is the Central Government. All other establishments will be governed by the state-specific rules notified by the respective State Governments.

## Regulatory Updates

In this section, we bring to your attention, important regulatory developments in the form of notifications, orders, bills, amendments, etc. witnessed in the past one month in the context of employment and labour laws.

### **Bihar repeals the Bihar Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2025**

The Government of Bihar has promulgated the Bihar Shops and Establishments (Regulation of Employment and Conditions of Service) (Repeal) Ordinance, 2026 ("Bihar Ordinance"), which was published in the Official Gazette on 1 June 2026. The Bihar Ordinance repeals the Bihar Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2025 ("Bihar S&E Act") with immediate effect, citing the overlap between the Bihar S&E Act and the OSH Code, as well as the need to promote industrial investment and economic activity in the State. Any proceedings initiated under the Bihar S&E Act prior to its repeal will continue as if the legislation had not been repealed.



## **Maharashtra and Haryana exempt establishments registered under the OSH Code from duplicate registration under the applicable shops and establishments legislations**

The government of Maharashtra and Haryana have exempted establishments from registration related requirements under the respective shops and establishments legislations after the enactment of the OSH Code. The same has been notified through a circular dated 30 April 2026 by the government of Maharashtra and through a gazette notification dated 4 May 2026 by the government of Haryana. We have covered these aspects in detail in our ERGO dated 20 May 2026 which may be accessed [here](#).

## **Delhi enacts the Delhi Jan Vishwas (Amendment of Provisions) Act, 2026 amending the Delhi Shops and Establishments Act, 1954**

The government of the National Capital Territory of Delhi has enacted the Delhi Jan Vishwas (Amendment of Provisions) Act, 2026 (Delhi Jan Vishwas Act), which received the assent of the President on 2 April 2026 and was published on 16 April 2026. The Delhi Jan Vishwas Act amends the Delhi Shops and Establishments Act, 1954 (Delhi S&E Act) to decriminalise offences and penalties. In particular, the Delhi Jan Vishwas Act amends Sections 40 (penalties for contravention) and 41 (wilfully making false entries) of the Delhi S&E Act to substitute fines upon conviction with penalties for contraventions under the above-mentioned provisions.

As per the amendment, the state government is required to appoint an adjudicating officer for conducting inquiries and imposing civil penalties and the labour commissioner has been designated as the appellate authority for appeals against orders passed by the adjudicating officer. An appeal may be preferred within 60 days from the date of receipt of the order and such appeal is required to be disposed of within 60 days from the date of filing.

## **Madhya Pradesh introduces the Madhya Pradesh Code on Empowering Work Spaces, 2026**

The government of Madhya Pradesh has published the Madhya Pradesh Code on Empowering Work Spaces, 2026 (MP Workspaces Code), which seeks to consolidate and codify various state legislations relating to employee safety and welfare, industrial relations and labour welfare administration. The MP Workspaces Code proposes to repeal the Madhya Pradesh Shops and Establishments Act, 1958, the Madhya Pradesh Industrial Relations Act, 1960, the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961, the Madhya Pradesh Shram Kalyan Nidhi Adhiniyam, 1982 and the Madhya Pradesh Asangathit Karmkar Adhiniyam, 2003.

The MP Workspaces Code further proposes a one-time registration framework for establishments, permits employment of women employees during night shifts subject to prescribed safeguards, provides



for consolidated returns and introduces a framework on safety committees, among other provisions. It also seeks to align aspects of industrial relations, social security and occupational safety aspects with the labour codes while providing for continuation of existing registrations, schemes, proceedings and standing orders during the transition period. The MP Workspaces Code shall come into enforcement from the date of notification by the state government.

### **ESIC directs immediate implementation of mandatory Aadhaar - based identification under Section 142 of the SS Code**

By office memorandum dated 22 May 2026, ESIC has advised all regional and field offices to immediately implement mandatory Aadhaar-based identification / authentication of beneficiaries under Section 142 of the SS Code (application of Aadhaar) and to give wide publicity to beneficiaries and employers. The Ministry of Labour and Employment, by letter dated 17 May 2026, clarified that Section 142 of the SS Code is self - executory, no separate notification is required and ESIC may implement the requirement through administrative instructions. That said, ESIC has also been asked to ensure compliance with the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016, including privacy, security and protection of beneficiary information.

## **Case Updates**

In this section, we share important judicial decisions rendered in the past one month from an employment and labour law standpoint.

### **EPFO cannot reject higher pension claims solely for non-production of records by the employer - held historical records**

In *Durga Srinivas Kallakuri v the Employees' Provident Fund Organisation*, Writ Petition Number 4826 of 2026 and connected matters, the Bombay High Court held that applications for pension on higher wages cannot be rejected solely on the ground that the employer failed to produce historical records or related documentation.

In the present case, the petitioner had retired after rendering continuous service and had applied for pension on higher wages. He had submitted the prescribed joint option form along with supporting documents. However, the respondent rejected the application on the ground that the employer had failed to furnish additional records including challans and proof of remittance of contributions on wages exceeding the statutory ceiling. The petitioner challenged the order of the respondent rejecting the application, before the Bombay High Court.



The High Court observed that documents such as challans and related statutory filings are maintained by the employer and the employee cannot be made to suffer for any lapse in the preservation or production of documents by the employer. The High Court further held that while the respondent is entitled to verify whether a valid joint option was exercised and whether contributions on higher wages were made, it cannot insist on a perfect set of historical records or documents in every case, especially where old records may not be fully digitised. The respondent must instead adopt a realistic approach by examining all available material.

The High Court held that the respondent had adopted an unduly mechanical approach in rejecting the claims without undertaking substantive scrutiny of the material already available. Accordingly, the High Court quashed the rejection orders passed by the respondent and remanded the matter back to the respondent for fresh consideration.

### **Director of an institution may be treated as an “employee” under the POSH Act if management and control vest in the governing body and executive committee**

In the case of Prof (Dr) J Sunderesan Pillar v Dr K K Seethalakshmi and Others, Writ Appeal Number 534 of 2026, the Kerala High Court held that a complaint of sexual harassment against the director who functions under the control and supervision of a governing body and executive committee would qualify as an “employee” and not an “employer” under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). Accordingly, complaints against such director can be inquired into by the internal committee (IC).

In the present case, a woman employee of the Integrated Rural Technology Centre (IRTC) had lodged a complaint of sexual harassment complaint against the appellant, who was serving as director of IRTC. Pursuant to the complaint, the IC issued a notice directing the appellant to appear before it. The appellant challenged the jurisdiction of the IC before the Kerala High Court, contending that as the director, he was an “employer” within the meaning of Section 2 (g) of the POSH Act and therefore, any complaint against him should have been placed before the local committee (LC) under Section 6 of the POSH Act.

The Kerala High Court observed that although the director was responsible for the overall management of IRTC, such powers were expressly subject to the control and supervision of the executive committee and the general body. The High Court further noted that the director himself was appointed by the executive committee and that the ultimate control, administration and management of IRTC vested with the general body and the executive committee.

Accordingly, the High Court held that the appellant was not an “employer”, rather an “employee” under the POSH Act. Consequently, the IC had the jurisdiction to inquire into the sexual harassment complaint filed against him. The High Court accordingly dismissed the writ appeal and upheld the proceedings initiated by the IC.



## **Supreme Court holds punishment cannot be founded on a charge not set out in the show cause notice in disciplinary inquiry**

In the case of *Dr Nigam Prakash Narain v National Medical Commission and Others*, Civil Appeal arising out of SLP (Civil) Number 22707 of 2023, the Supreme Court held that disciplinary authorities cannot impose punishment on the basis of a charge that did not form part of the original show cause notice, without granting the concerned individual a fresh opportunity of hearing.

In the present case, the appellant, a former professor at Patna Medical College, had earlier served for a brief period with another medical college during the same academic year. Pursuant to an inspection conducted by the Medical Council of India (MCI), a show cause notice was issued alleging that the appellant had appeared as faculty in inspections conducted at two different medical colleges in the same academic year and had submitted a fake faculty declaration form. The appellant responded to the notice and demonstrated, through passport and travel records, that he was abroad on the date of one of the inspections and had not physically appeared before the inspection team.

The ethics committee initially accepted the appellant's explanation. However, upon reconsideration by the executive committee, the appellant was penalised on a different ground, namely, that he had failed to disclose his earlier association with the other medical college in the declaration form submitted for inspection purposes. Based on this omission, the appellant's name was directed to be removed from the Indian Medical Register for three months.

The Supreme Court observed that the allegation relating to non-disclosure or mis-declaration did not form part of the original show cause notice and that the appellant had not been afforded an opportunity to respond to this new charge. Based on principles of natural justice, the Supreme Court held that once the original charge had been defended, the disciplinary authority could not punish the appellant on an altogether different allegation without issuing a fresh show cause notice or granting a fair opportunity of hearing.

That said, the Supreme Court also observed that the appellant had made an incorrect declaration by stating that he had not presented himself to any other institution as faculty during the relevant academic year. Accordingly, under Article 142 of the Constitution of India 1950, the Supreme Court directed that the punishment be reduced from removal from the register for three months to issuance of a warning.



## Industry Insights

In this section, we delve into interesting human resources related practices and/or initiatives as well as industry trends across various sectors in the past one month.

### **India Inc. shifts focus on reshaping workforce resilience strategies amidst external disruptions**

As a result of external disruptions such as climate shocks, infrastructure challenges and public health outbreaks, which are significantly impacting workforce productivity and talent management, [India Inc.](#) is increasingly facing external disruptions. According to a recent report, many organisations are reporting challenges in retaining talent due to these ongoing disruptions, indicating a shift of organisations from productivity issue to a broader labour industry concern.

As disruptions have become a constant phenomenon, companies are witnessing declining productivity, rising absenteeism and increased hiring pressures, prompting more focus on resilience, flexible work models and employee wellbeing. At the same time, evolving workforce preferences particularly among younger professionals are driving reverse migration and increased demand for remote and hybrid roles in tier II and III cities of India, pushing organisations to adopt more employee - centric workforce strategies to sustain growth.



We hope the e-Bulletin enables you to assess internal practices and procedures in view of recent legal developments and emerging industry trends in the employment and labour law and practice landscape.

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