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Improving Societal Values – The Role & Responsibilities of Corporates

Abstract

The corporates are recognized as a juristic personality in the eyes of the law. But for the misdeeds, the company cannot be punished because it has neither a body nor a soul to be hanged or banged. Therefore, the citizenship status is not given to the corporations in the Constitution of India and they cannot invoke the fundamental rights available to the citizens of India. However, according to the Supreme Court decisions in the Bank Nationalisation case, Bennett Coleman & Co. case, Godhra Electric Co. Ltd. Case, it was held that the right of a shareholder and the company which the shareholders have formed are co-extensive and the denial to one of the fundamental rights would be denial to other.

Further, business of the corporations and companies depends on the society for existence, sustenance and encouragement. Dependence of business on society leads to a definite responsibility towards society which is commonly called as Corporate Social Responsibility. The Corporate Social Responsibility refers to the responsibility of decision makers to take actions which protect and improve the welfare of the society as a whole which may consist of many issues viz. environmental concerns, community concerns, law abiding, philanthropic, managing crises like earth –quakes, tsunami etc., civic duties and so on and so forth.

In this paper, an attempt is made to highlight the corporate responsibilities to women empowerment and how they can discharge their obligations in the area of women education, employment and empowerment.

Introduction

The Companies Act 1956 recognises the companies and corporations as a juristic personality in the eyes of law. But for the misdeeds of the company, company cannot be punished because it has neither a body nor a soul to be hanged or banged. The Supreme Court of India in Tata Engineering and Locomotive Co. Vs State of Bihar (AIR 1965 SC 40) held, “..... What the corporations and companies cannot achieve directly can be achieved indirectly by relying upon the doctrine of corporate veil. “The citizenship status is not given to the corporations in the Constitution of India and they cannot invoke the fundamental rights available to the citizens of India. However, According to the Supreme Court decisions in the Bank Nationalisation case (AIR 1970 SC 564),

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Bennett Coleman & Co. case (AIR 1973 SC 106), Godhra Electric Co. Ltd. Case AIR 1975 SC 32), it was held that the right of a shareholder and the company which the shareholders have formed are co-extensive and the denial to one of the fundamental rights would be denial to other. In the light of the above judgment, it can be safely concluded that though the company does not have a body or a soul, it is recognized as a citizen in the eyes of the law and it has the responsibility of contributing its mite to the welfare of the state and its subjects.

Business is dependent on the society for the inputs like money, men, materials, skills etc. for its existence and sustenance. In the sense, once the society ceases to have any use for business, the business cannot survive. In view of this dependency, business is having definite responsibility towards society which is called Corporate Social Responsibility. Corporate Social Responsibility is understood as the obligation of decision makers to take actions which protect and improve the welfare of society as a whole along with their own interests.²

Corporates have the responsibility which protect and improve the welfare of the society as a whole. It may consist of many issues viz. environmental concerns, community concerns, law abiding, philanthropic, managing crises like earthquakes, tsunami etc., and civics duties and so on and so forth. For any violation of human rights by the Corporates may attract a stringent punishment even to the extent of closure of their business because, after all, the business is a subservient to the humanity. For example, during the Janata Regime in India in 1970s, the then Industrial Minister Mr. George Fernandes had taken a decision of sending Coca-Cola company outside India for their refusal to divulge their production formula. In the recent past, Myanmar Govt. closed the business of Pepsi in their country because of the human rights violation made by the shareholders of the company.

There are arguments for and against the Corporate Social Responsibility. Management Guru Peter Drucker is the person who opposes the

corporate social responsibility and he has gone to the extent of saying fire the executive who wants to take social responsibility. The late Dhirubhai Ambani of Reliance was not a believer of Social Responsibility. But there are strong arguments in favour of Corporate Social Responsibility on the grounds of better business environment, increased public revenue through regulatory conditions, moral responsibility and citizenship status in the form of institutional members of society.

The purpose of the law is to have an orderly behavior of an individual so as to achieve and maintain peace and tranquility in the society. In the sense, the society will be peaceful only when individual behaves in a proper manner acceptable by the members of the society, and to maintain the same the regulatory procedures are imposed through the provisions of the law. The corporate, being the institutional members of the society, are also required to behave themselves and abide by the rules and regulations failing which, there will be a chaos and confusion in the maintenance of peace and tranquility in the society. The supporters of the argument against the corporate social responsibility are of the view that the economic efficiency should be the top priority for any business and the business managers are not capable of solving social problems effectively. But these arguments do not hold any water because to achieve economic efficiency by the business, the business can not be allowed to rob the welfare of the society and the society cannot sacrifice its rights since the business is subservient to the society. For example, pollution of water sources and atmospheric air by the industrial effluents will harm the society and the health of its members. In the name of economic viability, if the industries are allowed to pollute the environment, it is nothing but mockery.

In view of the above, in this paper, it is assumed that the Corporates are responsible institutional members of the society and they have the responsibility of behaving as responsible as individuals to maintain the peace and tranquility in the society.

Business and Society

Paul Ehrlich, in his book “The Population Bomb” listed several rights of mankind which includes: eat well, drink pure water, uncrowded and decent shelter, freedom from thermo nuclear war, avoiding pesticide poisoning etc. However, these have become a dream in the technological savvy human way of living. Pollution of water, air and soil is caused by various agents viz. natural pollution, population explosion, deforestation, vehicular traffic, industrial establishments, disrupted ecological conditions etc.

Whatever be the arguments against Corporate Social Responsibility, in India, after the United Nations Conference on Human Environment at Stockholm in 1972, much legislation have come into force to maintain the environment which ultimately fixes the corporate social responsibility.

The Forty-second Amendment in the Constitution of India with effect from 3.1.1976 introduced principles of environmental protection through Article 48A. The Stockholm Conference has led to legislation of The Air (Prevention and Control of Pollution) Act, 1981 and the Environment Protection Act. 1986.

All these legislations have impact on the business and created a responsibility on the business to have harmonized way of behavior to maintain good health and safety of the members of the society. Some of the salient features are given here below:

1. Introduction of Sec. 41-A to 41-H under Chapter IV A in the Factories Act, 1948 by Amendment Act of 1987 (relating to Hazardous Processes) to ensure proper health and safety of the industrial workers.³
2. The Water (prevention of Pollution) Act, 1974 and The Air (Prevention and Control of Pollution) Act, 1986 paved the way for establishment of Pollution Control Boards to oversee prevention of pollution and control of noxious substances from industries and automobiles.⁴

3. The Water (Prevention and Control of Pollution) Cess Act, 1977 not only levies cess on specified industries on the amount of water consumed and the nature of pollution the process causes, but also encourages installation of treatment plants and given a rebate of 70% in cess to those units install treatment plant.
4. The Environment Protection Act, 1986 ensures regulation of discharge of pollutants, handling hazardous substances, speedy response in the event of accidents threatening environment and also awards deterrent punishment who endangers human environment, safety and health.
5. The Courts have come heavily in the matter of pollution control. Some of the interesting environment protection court cases are given here below.⁵
 - a. Running workshop in residential colony is considered as nuisance and injury to the health of citizens
 - b. Courts come heavily on the failure of municipalities to prevent and discharge from an alcohol plant of malodorous fluids into the public streets.
 - c. Even though the leather industry is a major foreign exchange earner, it does not mean that this industry has the right to destroy the ecology, degrade the environment or create health hazards. The Supreme Court of India has gone to the extent of ordering to close about 1000 leather industries in North Arcot District of Tamilnadu.
 - d. In exercise of powers under Article 142 of the Constitution of India, the Supreme Court of India will take note of express prohibition and award compensation on the basis of public policy.

Thus, the harmonious blend of initiatives form the legislature, the executive and the judiciary helped to protect the environment and imposed a duty on

the business to abide by the rules and regulations issued from time to time and the sense of Corporate Social Responsibility has become unavoidable at present.

Changing Views on Business Social Responsibilities :

The Classical Economy Theory advocated that profit making was the sole objective of the business. Adam Smith in his “Wealth of Nations” voiced a number of exceptions to his principles for social reasons. But over the period of time, the business people have modified the profit maximization concept to address the social concerns. In the colonial era, merchants practiced thrift and practiced charity and contributed for the development of schools, temples and extending helping hand to the poor. For example, Mr. Pachaiyappa mudaliar of Kancheepuram in Tamilnadu amassed a huge wealth out of business and created a trust in his name for the imparting of education in and around Chennai. Birla Group has contributed for the creation of worship places (Birla Mandirs) for the promotion of Hindu Religion. Tatas have contributed much for the pursuit of labour welfare. Godrej & Boyce, Shriram Industries and TVS group are good employers and known for their labour welfare schemes. John D. Rockefeller created a Foundation to promote the well being of mankind throughout the world.

In the last forty years, the concept of business social responsibility has continued to evolve a new dimension. The view on social responsibilities have become broader and more compelling and put into practice. The corporates have begun to start many programmes such as education, public health, conservation of natural resources, housing, employee welfare, crèches, day-care centre’s etc. The accelerated growth of industries added fuel to make the corporate work more vigorously in the area of Corporate Social Responsibilities. Many leading businessmen G.D. Birla, Jamanlal Bajaj, Lala Shri Ram, J R D Tata and others contributed liberally towards the programmes of untouchability,

Women’s emancipation and rural reconstruction and established institutes of Scientific and Technical Research such as Tata Institute of Fundamental Research, Birla Institute of Technology at Pilani and Ranchi etc.

The amendment in Income Tax Laws giving tax benefit for researches and charities paved the way for increasing the philanthropic activities by the corporate world. The post 1980 period witnessed increased willingness of business groups and Government in the areas of charity and philanthropic activities. The Business Groups like Birla, Tatas, Singhanias, TVS etc. actively involved in the areas of Corporate Social Responsibilities and do a splendid work for the welfare of common people.

Women and Business Opportunities

The Indian culture is basically a male chauvinistic and women have been discriminated in the areas of education, equality, remarriages etc. They were considered to be fit to cook and treated as child bearing machines. In Indian Society, The girls were treated as second rate citizens even in the area of feeding and they have been exposed to under-nourishment and denied access to the outside world.

Though the Constitution of India provides equality to women, the report of National Committee on the Status of Women gives disheartening findings like declining sex ratio due to excessive mortality rate of women and female children and abortion of female foetus and felony of killing female children after birth. The news items in the media exposes daily the injustice done to the women in the form rape, bride burning, cruelty to women, dowry deaths etc. Though the Indian Penal Code and Prohibition of Dowry Act provide stringent punishment for cruelty to Women, the situation has not improved in Indian to bring the women at par with the men. From this, it can be safely concluded that the women do not get their legitimate rights and have to go a long way to empower themselves so as to place themselves at par with men. The Work of Social Reformer Sri E. V. Ramaswamy Naicker in Tamilnadu created a major impact on Women Empowerment in the South and created awareness in this area.

Though the Women population is more or less equal to men population roughly about 48% of the total population, their share in the education, employment. All India Services etc. is very negligible. The women workforce represents roughly at 21% that too in lower paid jobs, thereby they are deprived of economic freedom and compelled to resort dependency on men. The reasons are many like: lack of education and training, domestic obligations especially after marriage, involvement of labour problems if they are taken on employment, defiant attitude of male taken on employment, defiant attitude of male worker to work under a female etc. However, seeds are sown for better future of Women by providing reservations for the women but the Women's Reservation Bill still pending before the Parliament and it is doubtful when it will see the light. Despite these factors, there is some encouragement feature in women employment in the recent past, especially in the post liberalization era, the IT companies are recruiting more women.

Legislative Protection to Women Empowerment

It is needless to say that for the life vehicle, men and women are two wheels and if any one is smaller than the other, it is difficult to pull the vehicle effectively. Hence, it is imperative for the society to empower the women for better way of leading the life by the members of the society.

Much legislation are available to maintain pollution free atmosphere and the responsibility of maintaining the environment free from pollution is imposed on the corporates as discussed in the initial paragraphs of this paper. Though women empowerment is necessary for the betterment of the society, it is unfortunate that no thought has been given in these lines and as on date, there is no single legislation which ensures women empowerment by imposing responsibility on the society or the corporate except Article 21A of the Constitution of India which makes giving compulsory education to children below the age of 14 years.

There are provisions in the Indian Penal Code to punish the sexual harassments against the women- Sec. 209 provides against obscene acts

and songs; Sec. 354 provides against assault or criminal force to a woman with the intent outrage her modesty; and Sec. 509 provides against the insult of the modesty of women by word, gesture etc. However, these provisions could not be effectively implemented in the work place because the failure of women coming forward to file complaints in the interest of their family image; unwillingness of employers to expose their organizations to these matters lead to settling the issues by themselves without flaring up; fear conscience of ladies to lose their jobs which is so important to support their families etc.

However, the landmark judgment in Vishaka Vs State of Rajasthan (AIR 1997) SC 30117 given by the Supreme Court of India paved the way for enactment of an Act called prevention of Sexual Harassment of Women at Workplace. This Act imposes a duty on all employers and people in charge of work place to take appropriate steps to prevent sexual harassment without prejudice to the generality of his obligations, It ensures effective human right of gender equality. In this judgment, the Supreme Court of India laid down certain norms and guidelines to ensure the safety of women at their workplaces. But, it is disheartening that the failure of effective implementation of the provision of the Act on the part of the employers has led to sexual abuse and large scale murders, suicides etc., ultimately the position of the women employees is precarious.

Corporate Responsibility on Women Empowerment

Though there were arguments against the Corporate Social Responsibility, the corporates have started many programmes such as education, public health, conservation of natural resources, housing, employee welfare, crèches, day-care centres, etc. The Tata Group were the first Business entity which introduced many labour welfare schemes even before the enactment of labour legislations. The Business houses came forward voluntarily to contribute their mite for

the social welfare in the form of assistance to the poor, providing hospital facilities, conservation of natural resources. But the developmental programmes sponsored by the business houses for the uplifting of women are very negligible as against the requirements.

It is not possible for the Government alone to take care of the above welfare measures for the women empowerment. The Corporates earning through the support of the society should come forward voluntarily to extend their support and helping hand to the Government to enhance the women empowerment. After globalization of the economy, the infrastructure in India has developed a lot by the private-public participation, In the same manner, effective steps can be taken by the corporates to build a stronger India by empowering the women.

The Women Empowerment can be achieved through consistent development and training. Some of the measures for women empowerment that can be developed by the corporate are given here below:

- a. Providing standard education and improve the skills of women through proper training to shoulder higher positions and responsibilities
- b. Providing the Female Child Education up to graduation level at least and provide infrastructural facilities including subsidies and free scholarship
- c. Identifying and encouraging the school drop out girls to pursue their education by providing adequate monetary and other support
- d. Encouraging the girls and train them specially to improve their skills to compete for the posts in the All India Services like IFS, IAS, IPS etc.
- e. Providing special incentives and encouraging women to shoulder higher responsibilities in the business.

Conclusion :

If each corporate giant come forward to spend at least five percent of their operating profit every year towards the education of the girls, the future generation may witness the powerful women flock. There is a general tendency among the recruiters that by employing women, they pose additional problems to them. It is said that the cost of employing women is greater than cost of employing men since the employers have to bear extra expenses to meet the statutory obligations in respect of women employees. This extra cost has to be viewed as a price paid by the corporates for building a sound society by empowering the women.

In nutshell, the corporate business houses should come forward and join hands with the Government to provide all possible assistance for the empowerment of women which will go a long way to build a stronger India and increase the societal values.

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