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*May 23, 2020*

**It's a Disaster**



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### Another lockdown? How long now? 2 weeks? 3 weeks?

This must be the question on everyone's mind now when India is headed into Lockdown 4.0. What will now be relaxed and what will be the consequences of this continued lockdown?

When India announced its first lockdown on March 25, 2020 for 3 weeks, the Government issued an order on March 29, 2020 under the Disaster Management Act, directing all employers, be it industry, shops or commercial establishments to pay wages to their workers on the due dates without deduction for so long as their establishments are under lockdown. The Government issued this order following incidents of companies deducting salaries and laying off people because of reduced business and cash flow during the lockdown.

These directions were acceded and adhered to by the establishments for 2 reasons, one, the employees have worked for most of March 2020 and two, business and offices will begin to work on and from April 15, 2020. But wait, it is middle of May 2020 and we are still at home with no work and it now seems we will be home for another 2 weeks.

While the employers paid March 2020 salaries without any deduction, where do they generate cash to pay employees for April 2020 and May 2020? An employer may, out of his goodwill, dive into his reserves or his own pocket to pay for April 2020 but what about May 2020 salaries when there is no business and no revenue?

Did the Government, however, give thought as to how the employers will generate cash to pay the employees or as to the impact of this order on the financial condition of the employers? If establishments continue making such payments, it will mean closing many businesses, which in turn may cause permanent unemployment and adversely affect the economy.



Few companies challenged this order in the Supreme Court and the Supreme Court, on May 15, 2020, stayed the order directing establishments to pay wages without deduction during the lockdown. The petition challenging the order stated that an employer and employee have reciprocal promises, whereby the right of an employee to demand salary is reciprocal to performance of work by such employee and that an employer has a right not to pay if no work is done.

This is welcome judgement at a time when India is going through a total lockdown. All businesses have been adversely affected. While the employers do not wish to cause hardship on the employees and

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understand their plight, surely, the employers cannot deplete their personal savings to adhere to the Government order.

At the same time, employees must understand the effect on his/her employer's business and accept any pay cut that the employer is offering. We all must understand that we are forced into this situation and if given a choice, no employer would want to lay off employees or even do a pay cut, since once the business revives, it is these very employees that we will want back.



While the Supreme Court judgement is a welcome judgement, it may lead to unemployment and further dent the economy. Employers must ensure that they pay wages to the employees to the best of their ability and not lay off their employees unless there are compelling reasons.

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