

IN BRIEF

BEYOND THE LABOUR CODES: INCLUSIVE PRACTICES AND LEGAL OBLIGATIONS IN PRIVATE WORKPLACES



Introduction

India's job market has expanded dramatically over the past decade, particularly within the private sector. Multinational corporations, startups, and technology-driven enterprises have fuelled unprecedented growth, positioning private establishments as significant employers within India's formal workforce. As organisations invest heavily in talent acquisition and upskilling to harness India's demographic dividend, the private workplace has become a central arena for economic participation and social mobility.

Alongside this growth, employee rights, particularly those of marginalised groups such as persons with disabilities, transgender persons, and individuals living with HIV, have evolved incrementally. Legislative interventions over the years reflect a conscious effort to extend formal recognition and targeted protections to groups that have historically faced systemic exclusion from employment opportunities.

As the employment landscape continues to evolve in terms of principles, practices, and workplace ideologies, many private establishments have adopted diversity and inclusion policies as a part of their corporate ethos. What however remains less widely known is that inclusion in the workplace is not merely aspirational, it is underpinned by binding statutory obligations that apply equally to private employers.

Beyond the Corporate Ethos: Inclusion as a Legal Mandate

Private establishments are often unaware that the Indian legal framework, over the years, has devised mechanisms to promote the well-being of certain groups of people, extending to providing channels and means for their employment, especially the employment of persons with disabilities, persons suffering with HIV-AIDS and of transgender persons.

With the recent advent of the Labour Codes and confusion surrounding compliance with the Codes, private organisations must also note the existence of the following laws, which are unrelated to the Labour Codes, and which have been in place for a while now:

- The Rights of Persons with Disabilities Act, 2016 (RPwD Act) and the rules framed thereunder;
- The Transgender Persons (Protection of Rights) Act, 2019 (TGP Act) and the rules framed thereunder; and
- The Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (HIV-AIDS Act) and the rules framed thereunder.

Statutory Obligations Applicable to Private Establishments

The RPwD Act, TGP Act and the HIV-AIDS Act, along with the rules framed thereunder, set out various compliances that extend not only to the state machineries but also to private establishments, ensuring that the basic constitutional and legal rights of such individuals are protected. The Acts, have a common link, where private establishments have been mandated to ensure that they do not discriminate, in any manner, regarding the persons whom the Acts protect.

In brief, private establishments are required to ensure and implement the following:

- non-discrimination in any aspect of employment, such as hiring, promotions, etc.;
- ensuring equal employment opportunities and ensuring that a safe, harmonious and non-discriminatory workplace is granted;

- ensuring strict levels of confidentiality and upholding the individual's privacy and integrity;
- preparing, implementing, publishing and enforcing anti-discriminatory and equal opportunity policies, indicating the establishments' commitment towards ensuring the rights of the specified persons;
- appointing officers who are able to duly redress grievances, complaints and oversee the implementation; and
- implementing and ensuring that an establishment is able to provide reasonable accommodations.

Judicial Reinforcement and the Compliance Imperative

The Supreme Court of India, in the recent matter of *Jane Kaushik v. Union of India and Ors.* [2025 SCC OnLine SC 2257] delved deep into the obligations of private establishments, primarily under the TGP Act and the RPwD Act. The judgement of the Supreme Court lays down a comprehensive understanding on the importance of compliance with both these Acts. Further, towards the enforcement of compliance under the Acts, certain state instrumentalities have laid down model policies that are required to be adopted, along with setting out the nature of reasonable accommodations that may be provided.

While many private establishments have faced challenges in fully implementing requirements under the Acts, these laws are required to be complied with. The steps relate to adopting equal opportunity policies, appointing complaint officers, and setting up grievance mechanisms. As stated above, while the Labour Codes is something that all entities are dealing with at the moment, the additional question to ask is whether compliance with these laws, unrelated to the Labour Codes, has also been ensured.

Conclusion

As private enterprises continue to navigate the evolving framework of India's labour reforms, compliance cannot be viewed through the narrow lens of the Labour Codes alone. The RPwD Act, the TGP Act, and the HIV-AIDS Act operate as parallel and enduring legal regimes that impose clear, enforceable obligations on private establishments.

These statutes mark a decisive shift from inclusion as a matter of corporate discretion to inclusion as a matter of legal responsibility. The recent judicial emphasis on compliance, coupled with model policies and guidance issued by state authorities, underscores that non-discrimination, confidentiality, grievance redressal, and reasonable accommodation are no longer optional best practices.

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