

Organ of Federation of Medical And Sales Representatives' Associations of India

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## Resisting violence

# Massive strike and mass protest in Indoco



Indoco Strike, BSSRU

Recently the management of Indoco Remedies Ltd took an arbitrary step, changed working and service conditions and unilaterally introduced Call to Call Reporting and forced the fieldworkers for compliance through their personal mobile handset in violation of all statutory provisions of the country. FMRAI has sent protest letter to management and raised the demand of mutual discussion and urged upon management for withdrawal of illegal changes in working and service conditions. The fieldworkers across the country have also sent a protest letter to the

management expressing their difficulties including

also intrudes into the private life of the fieldworkers and exposes them to constant surveillance violating the constitutionally-guaranteed right to privacy.

In spite of protest by Indoco field workers and FMRAI, the management took an adamant stand ignoring the difficulties of the fieldworkers and defying the law. The management blocked the existing reporting part of the web portal of the fieldworkers for non-compliance of Call to Call



Indoco strike, Ernakulam, Kerala, KMSRA

infrastructure, connectivity and other onerous matters. Introduction of this new system

Reporting. As a result, the fieldworkers were compelled to

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## Protest action by Alkem fieldworkers

# Mass casual leave in Alkem



Alkem mass Casual Leave, Kerala, KMSRA

Alkem field workers throughout January, 2021. At the same time Massive demonstrations



Alkem Mass Casual Leave and Demonstration, Lucknow, UPMSRA

and designation, availed one on the day were organized in day Mass casual leave on 28th

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## Movement getting further momentum

# Three days of powerful strike in Biological E



Biological E Strike and demonstration, Kolkata, WBMSRU

Biological E field workers continued to face attacks of the management and are resisting them with firm determination. In continuation of the atrocities of BE management especially during the prolonged COVID lockdown period stoppage of salary for protesting unilateral impositions, the SPEs of BE is fighting and courageously putting up resistance against the attack with befitting united protest action throughout the country. (Covered in earlier publications of FMRAI News) Management further in

November, initiated action against the council leaders in five states and transferred them to terrorize the Sales Promotion employees across the country. Immediately, all sales promotion employees irrespective of the designation protested this malafide, unjust action of the management and once again courageously participated in various protest action across the country. The council subcommittee members also exhibited their strong protest and staged demonstrations before the company establishments. In

the month of January, almost 300 sales promotion employees of BE council resorted to 3 days strike from 7th to 9th of January, 2021 to protest this unruly malafide action of the management and continued oppression of the management. During this 3 days strike, the field workers expressed their discontent to the BE management through SMS and demanded the revocation of the illegal transfer orders. Many stockiest/ distributors across the country expressed solidarity and send their appeal to the management. Memorandum elucidating the demands of BE field workers were also submitted to the management. Members of the council sub committees arranged demonstrations before the company establishments and submitted memorandum to the management in various parts of the country. Protest Programmes were successfully implemented in Odisha, West Bengal, Bihar Jharkhand, North East region, Rajasthan, Uttar Pradesh, MP-Chhattisgarh, Maharashtra, Hyderabad, Kerala, Tamilnadu, Andhra Pradesh, Karnataka and other parts of the country. Apart from state wise submission of Memorandum, in Hyderabad, a



Biological E Strike and demonstration, Cuttack, OSRU

delegation comprising of the leaders of TMSRU met with the management at Head Office and submitted memorandum. Throughout the country, irrespective of different designations created by the management, the SPEs of BE exhibited exemplary solidarity in protesting against the atrocities of management and demonstrated total confidence in FMRAI. Management deducted the salaries of the striking field workers. The present management of the company is adamantly showing their indifferent attitude and continuing with their anti worker

activities. In one hand they are destabilizing their own market through faulty marketing policies and in other hand victimizing and terrorizing the field workers to break the unity and to suppress their voice of protest. In the past, FMRAI had to extend their hands to cooperate the company at the time of crisis but still company has not taken the lesson from the past and allowing the situation deteriorate. The company fails to understand the value of mutual cooperation have not yet settled the long pending Charter of Demands. The Industrial actions shall be intensified legally and through agitation.



## Recover rights and gains

# Occupy new space

The farmers sitting in biting winter cold at protest sites near Delhi found the new farm laws quite unappealing and probably, repugnant. The union government, however, assured and reassured that the three new farms laws, in fact, are beautiful gifts generously given by the government to the farmers. But such beauty has not been claimed by the government in the instance of changes in labour laws. Government called it 'labour reform'. But this government had never ever claimed that it was for the good of the workers. If assurance on farms laws is anything but truthful, then not claiming such welfare in the matter of workers can be attributed to the honesty of the government or, alternatively, it can be attributed to the perilous presumption (or even assertion) of the government that labour laws are no longer meant to protect the workers but for easy and quick profits of the corporation with least of responsibility and accountability.

The recent promulgation of labour codes disbanding major labour laws and the draft rules under these codes abrogating former rules under these labour laws confirms that the government is honestly taking the side of the employers and doing things which are highly injurious to the life and livelihood of the workers. Thirteen labour acts and rules, including SPE act and rules have been repealed by OSH & WC Code and rules (in draft). SPE act and rules are very specific labour legislation for lakhs of field workers in eleven industries. This act and rules have been immensely changed and diluted by the OSH & WC Code and other Codes and rules. OSH & WC Code and rules take away the right to get appointment letter in Form A, several benefits concerning leave facilities and compensatory holiday, attempt to extend work-day up to 12 hours (spread-over time), attempt to dilute the provision of inspection by the government-appointed 'inspector' in the matter of implementation of the act. Section 6 of SPE Act clearly states that Workmen's Compensation Act, Industrial Dispute Act, Minimum Wages Act, Maternity Benefit Act, Payment of Bonus Act and Payment of Gratuity Act are applicable for the field workers. What is appalling is that the OSH & WC Code is completely silent on the question of applicability of these acts for the sales promotion employees.

In defining the term 'worker' in the IR Code states that 'sales promotion employees' are workers 'as defined in clause (d) of section 2 of the Sales Promotion Employees (Conditions of Service) Act, 1976, and for the purposes of any proceeding under this Code in relation to an industrial dispute...'. Thus, by concrete

reference to SPE Act, 1976 the IR code confirms that SPE Act is an existing act and a definition under it continues to be valid, while the OSH & WC Code declares that SPE Act, 1976 stands 'repealed'. Reading the said two codes together, now it is impossible to conclude for certain if SPE act stands cancelled or it exists. Careful reading reveals that such ambiguity and uncertainty exists in many sections in all the codes. In tearing hurry to please the employers, either by way of learned omission or by making things ambiguous and vague and by making arbitrary amalgamation of several labour laws together, the government has made things worse for workers. Besides directly robbing of the right, such ambiguity and mystification in codes, are making labour laws ineffective and inoperable. SPE act and rules did not come in a day. Before 1976 there was no protective legislation for the field workers. SPE act came into existence on 6th March, 1976. The Statement of Objects and Reasons in the introductory part of the act records that the act was promulgated on the strength of recommendation of the Committee on Petitions (Rajya Sabha) in its thirteenth report submitted on March 14, 1972, that 'the Federation of Medical Representatives Associations of India made a petition to the Committee' calling for intervention of the parliamentary committee, and that the said report opined in favour of achieving 'the ends of social justice to this class of people'. The Statement of Objects and Reasons states that 'keeping in view the justification of the demand of the sales promotion employees, and the recommendation made by the Committee on Petitions, and taking other relevant aspect into consideration, it is considered more appropriate to have a separate legislation for governing the conditions of service of sales promotion employees...'

With a view to protect the field workers from the tyranny of the employers it was found wise to make a separate legislation instead of adding some sections in existing labour acts. Here, this perspective and necessity of bringing a specific and separate piece of legislation is irrefutably recorded in the SPE act itself. A separate and particular legislation was an outcome of considered reflection and a discourse involving several persons and democratic institution over a long-drawn-out course of time. Field workers, at the call of FMRAI, organized agitation and campaign and raised their demands vociferously. This too was mentioned, briefly and nominally, in the introduction part of the Act ('these persons, particularly the medical representatives in the pharmaceutical industry, have

been demanding from time to time...'). Even after enactment, SPE Act was not meaningfully applicable because of its irrational wage ceiling. It took eleven more years to remove this anomaly and to make it effective. The amendment came in to being in 1986 and wage ceiling was completely removed. The amended SPE Act was enforced on 6th May, 1987. The newly enacted OSH & WC Code and other Codes and rules allows employers of departure from good practices in employer-employee relationship and make many of their evil actions lawful. In practice, these codes are further legitimizing exploitation, violence and cruelty against workers. These codes are disaster for both reason and law in a plural and democratic country like ours. Rights and benefits were not rained from heaven upon the field workers in one fine morning. It was hard-earned. It was earned through bitter struggle. Today, it has to be retrieved, may be, again through bitter struggle and sacrifice. Repeal of SPE Act is desperately unreasonable and wicked. Field workers' movement will contest these horrific acts in the path of nationwide agitation and propaganda. In view of the unprecedented virus outbreak, lockdown, economic recession and economic breakdown of the common people, in view of the terrible legislations and launching and re-launching of anti-worker, anti-farmer projects by the newly-elected union government, the current time may appear quite grave and dark. But, in fact, it is not. Even the darkest thing on earth emits some light. This is a scientific truth. New plants with green leaves sprout in the rot and stink. Amazing struggle of the farmers, for over two months now, against the three farm laws, against the government's policies and against the hostile winter and more hostile smear campaign, proves beyond doubt that it is a fit time to stand firm and fight. It is time for field workers to prepare for long-drawn and bigger struggle. Field workers' movement must have to recover whatever has been taken away. But that is not all. The legislative protection against the tyranny of the employers in the name of 'disciplinary action' and 'management's prerogative' is an outstanding claim of the field workers' movement. Statutory working rules must define job responsibility; specify the duties of the field workers. Statutory standardization of the job of a medical and a sales representative should make goodbye to private working rules. Struggle will be organized not only for recovery but also to occupy new space in terms of rights and gains. The seemingly dark times must be viewed as an opportunity to advance and achieve.

## Obituary

### Giridhari Goswami



Giridhari Goswami, former General Secretary of WBMSRU passed away on 8th December, 2020 at the age of 83 years. He started his career with Alembic. He was elected as founder General Secretary of WBMSRU in the merger year 1984 of two CITU affiliated unions in the state. During that period he worked whole-heartedly for the organizing the field workers and building the movement and organization. He devoted whole day in organizational work staying in union office in several time as his residence was little far from Kolkata city. He was actively involved in trade and democratic movement since his student hood. He was also a good Painter. FMRAI deeply mourns the demise of our beloved leader and expresses our heartfelt condolence to his bereaved family.

### Somnath Samaddar



Somnath Samaddar, Vice President of Birbhum district committee and former member of the State committee of WBMSRU, breathed his last on 2nd January 2021, at the age of 52 years. He was working in Elder Pharmaceutical and remaining in the frontline he continued his struggle all along. He worked wholeheartedly for the organization and contributed significantly in organizing the field workers for movement in the district and the state. He was actively involved in the trade union movement and broader democratic movement in the district. He was suffering from chronic kidney ailment since long to which he succumbed. FMRAI grieves his death and conveys condolence to his family, friends and all his comrade-in-arms.

### Rahul Gupta



Rahul Gupta, employed as sales promotion employee in Meyer organics, invitabiotic division based in Lucknow and a member of UPMSRA died on 4th January 2021 due to a road accident. FMRAI deeply

condoles his untimely death and conveys condolence to the bereaved family.

### Manoj Saraswat



Manoj Saraswat, field worker of Svizera, Ace division based in Saharanpur HQ and a member of UPMSRA passed away on 29th January 2021. FMRAI deeply mourns his sad and untimely demise.

### Sanjeev Tiwari



Sanjeev Tiwari, field worker of IPCA, Aactiva division based in Deoria HQ and a member of UPMSRA died in a road accident on 17th January 2021. FMRAI expresses deep condolence on his death and conveys condolence to his bereaved family.

### Stephen Mariappan

Stephen Mariappan, a field worker employed in Bharath Biological at Tirunelveli headquarters and member of TNMSRA passed away on 7th December, 2020. He left behind his child, wife and elderly parents. FMRAI grieves his unfortunate and untimely death.

### Ramesh



Ramesh a field worker employed in blue cross at Tirunelveli headquarters and member of TNMSRA met a gruesome accident while coming after completing his work in the field and passed away on 6th January, 2021. He left behind two children, wife and elderly parents.

### Viswam



Viswam a field worker working in Aarux pharmaceuticals at Tirunelveli headquarters, Tamilnadu and member of TNMSRA, met a gory accident during field work and passed away on 4th January, 2021... He leaves behind his five-year-old child, wife and elderly parents.



## Countrywide resistance against onslaught in Bharat Serums

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are being conducted by the management for the employees who had protested the transfer and not joined in the transferred headquarters. Against such gross anti-labour activities and atrocities of the management various Industrial actions are being conducted across the country by FMRAI. Regional heads and Second Line Managers of all divisions are also being met in deputations by the state council subcommittee with the demand

of revoking all transfers. Protest demonstrations are being organized in front of the executives of Bharat Serums executives in the field.

Council sub committees across the states and subunit remaining in the forefront, field workers movement across the country, are resisting aggressively this hell of onslaught on the field workers of Bharat Serum. Demonstration programme before the company establishments were conducted in some state units in the month of January, 2021.

## Massive strike and mass protest in Indoco

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send their daily reports through mail in the same web portal to report their daily work. The managers refused to undertake joint field work with the fieldworkers who did not comply with call to call reporting system. Following this, the management resorted to illegal deductions from the salaries of the fieldworkers.

In addition to the above, Indoco management is continuing with their unfair labour policies and has unleashed various attacks on the fieldworkers to take away the existing rights and benefits. The issues and grievances of the fieldworkers remained unattended as the management has not yet agreed to form the Grievance redressal forum to address the day to day issues and grievances of the fieldworkers, which again is transgression of law.

Already, two references are pending before the Industrial Tribunal ; one is pertaining to COD and another regarding reporting, yet in this scenario, Indoco management introduced call to call reporting ignoring the court of law.

Protesting against all these oppressive actions of the management, all Indoco field workers from all corners of India have sent SMS on 5th January, 2021 demanding reimbursement of illegally deducted wages.

On January 22nd, field workers of Indoco resorted to one day strike throughout the country. Close to a thousand fielders across the country joined this strike. Large number of trainees and non member field workers too abstained from work on the day adding significance to this strike.

In Madhya Pradesh and Chhattisgarh, reports of strike poured in from all corners where field workers participated in the strike with high spirit making it a success in across MPMSRU.

In Maharashtra majority of the field workers of Indoco who are also members of MSMRA took active part in making the strike successful. In Haryana (HMSRU), the strike was total with deep involvement field workers who participated in the

strike. In Punjab, the spirit of the farmer agitation inspired the field workers and all the field workers put off their detailing bags and joined the strike. In HPMRA members (Himachal Pradesh) and all field workers of Indoco joined strike braving biting winter. In Rajasthan field workers of Indoco responded to the strike call given by FMRAI and RMSRU and majority of them participated in the strike. In Jammu the lone member went on strike.

In Bihar Jharkhand (BSSRU), West Bengal and Odisha large number of Indoco field workers challenged the atrocities of the management and joined the strike fearlessly. With total participation of Indoco field workers in CRU the strike was successful in the North-Eastern states, throwing major challenge to the management in these states. Across the districts of Assam and in Manipur the strike was hundred per cent.

In Andhra Pradesh the Indoco field workers struck work en masse across the entire state. In Telangana field workers participated in the strike at the call of FMRAI and TMSRU. Here too, the strike was spread throughout the districts of the state. Owing to strict maintenance of Covid 19 protocols memorandum was submitted to the CFA expressing support towards the striking workers.

In Tamil Nadu field workers organized sit-in Dharna on the strike day and demonstration was organized by TNMSRA and a delegation of TNMSRA comprising Ramesh Sunder, President, FMRAI met the CFA and submitted memorandum to the manager.

Dharna and demonstration in front of the Company's establishments were also held in Kolkata (WBMSRU), Raipur (MPMSRU) and Ernakulum (KMSRA) where field workers joined the strike with involved participation.

Prior to the strike from the 5th of January onwards, demonstrations were organized in the field before the managers of Indoco and memoranda were submitted throughout the country.

Over online platform

# Annual General Meeting in Sanofi (HAIRC)

HAIRC, the recognized forum for the unionized field workers in Sanofi, is holding its Annual General Meeting every year since its inception. As an organization of field workers aligned with the principles of FMRAI and the democratic movements of the country, it has been in the forefront of struggles on various issues within the company and in the industry. This year the 49th Annual General Meeting of HAIRC was held over on line platform in view of the pandemic and pandemic-inflicted restrictions. The meeting started with opening deliberation of Santanu Chatterjee, General Secretary, FMRAI who explained the impact of Covid 19 and subsequent unplanned lockdown imposed upon the common man and the working class of the country. He also talked in detail on the various methods of oppression adopted

by the employers of the pharmaceutical industry taking advantage of the situation created by the pandemic and the policies of the government especially with reference to vast changes in labour laws and circumvention and denial of labour rights in the country.

B. Chandra Kumar, Treasurer, HAIRC spoke on the various attacks mounted on the profession of Sales promotion by the managements of the industry and how, under the banner of FMRAI, the field workers of different companies are putting up stiff resistance to these aggressions.

Santanu Mitra, Joint Secretary, HAIRC, deliberated on the historic background of the farm distress in India and how the present ruling dispensation deceived the farmers by going back from the promises they made before 2014. The details of the various derogatory

impacts of the three farm bills were also presented by him. He also spoke on the impact of four labour codes robbing hard earned rights of the workers. The organizational report was placed by the General Secretary U.V. Krishnaiah who made special emphasis on the recent digitization drive by Sanofi management and explained how the Medical Representatives have to prepare for resisting this onslaught. The placement followed a lively discussion on the report by the members where more than twenty five members spoke. More than 250 members participated in the AGM which retained the same body of Executive Committee with Atul Lahoti as President, K. Santosh Kumar as Vice President, U.V. Krishnaiah as General Secretary, Santanu Mitra as Joint Secretary and B. Chandra Kumar as Treasurer. The AGM was presided over by Atul Lahoti.

## Mass casual leave in Alkem

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front of company's establishments in all state units of FMRAI by the state council subcommittee and the members of the state units where the Alkem field workers also participated with high spirit of struggle. This mass protest, including mass casual leave and demonstration programme was a massive success throughout the country. Previously, in the period between 18th January and 23rd January, 2021 Alkem field workers throughout the nation wore demand badges during field work and company's meetings.

It was also decided that complaint will be lodged forthwith in the labour department by UPMSRA against unjust transfer order issued to the Zonal Convener (North) of the council. Alkem field workers are fighting for their right since long. The legitimate demands of settlement of long pending Charter of Demands, constitution of grievance committee and holding meeting of the grievance committee, as stipulated under law, are continuously and deliberately being overlooked by the management. Alkem field workers, irrespective of division and designation, are being denied of lawful appointment letter in Form A in compliance with the Sales Promotion Employees (Condition of Service) Act, 1976 and rules there under. in the name of virtual activities

unilateral working conditions are coercively being imposed upon the field workers.

In the mean time management is intimidating the field workers of grim consequences for participating in trade union activities.

With a view to cow down the field workers and interfere in their legitimate trade union functioning the management has issued illegal transfer orders to some of the leading functionaries of the council to distance places, issued termination letters and initiated arbitrary punitive actions including stop work, wage cut, humiliation and harassment against the leading functionaries of council making their ulterior motive more obvious and evident. Management also executed unilateral changes in reporting system in some divisions. The field workers of Alkem demanded of the management of resolution all the demands urgently through mutual discussion, including the pending Charter of demands and grievance committee.

The mass protest had sent strong message to the management and taking cue from that message the management should maintain harmonious industrial relation and refrain from adopting newer and newer anti-worker policies against the field workers, failing which the field workers of Alkem shall have no other alternative but to intensify their agitation in days to come.

## Organizational convention in OSRU

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essential task of revamping the functioning of the organization. The delegate session was initiated with the presidential address by Subhankar Das. Satyabrata Mohapatra and Ashutosh Dash, the General Secretary and Treasurer of OSRU, respectively, placed organizational report and report on organization's fund. Seventeen out of twenty-two District and Base Secretaries participated in discussion on the two reports.

The Organizational Convention adopted three resolutions (e.g., against farm laws and for support to historic farmers struggle, against amendment of labour laws and against sales related harassment and newer form of attacks).

The delegate session adopted a resolution authorizing commencement of Organizational Convention during the present extraordinary situation of pandemic and endorsing the recommendation of holding the regular conference as soon as the situation normalizes.

Satyabrata Mohapatra and Ashutosh Dash summed up the discussion in the delegates session and clarified all the queries of the delegates on the report. Both reports were adopted unanimously.

The Organizational convention was concluded with felicitation J S Majumdar, Janardan Pati, Santanu Chatterjee and Rabinarayan Mallick. Seventy eight out of hundred and one eligible delegates, from across the state, attended this Organizational Convention which was concluded successfully.



# Organizational convention in OSRU



The Organizational Convention of OSRU was held on 17th January, 2021 in Cuttack at Barabati Stadium which was named after Diptiranjan Pattanayak (Diptiranjan Pattanayak Manch). Diptiranjan Pattanayak was Treasurer of Bhawanipatna unit of OSRU who died in a road accident in June 2020. In view of Covid-19 protocol OSRU had to limit the total number of participants (delegates) below hundred. In this given context, the Organizational Convention was attended by the State Committee members, District Presidents & District Secretaries and Council Conveners.

The biennial conference of OSRU was scheduled to be held in December, 2021. As per the constitution of OSRU maximum 350 delegates can attend the conference. Under the prevailing situation the state government barred from assembling of more than 100 persons. Therefore, the State Committee OSRU decided to hold Organizational Convention and accomplish all functions of a conference except holding of election of incoming State Committee.

The venue of the Organizational Convention, Barabati Stadium, was decorated with red festoons, banners and flags. Subhankar Das, President, OSRU, hoisted OSRU flag. Floral tribute to the martyrs' column was offered by state and unit leadership and other delegates.

A presidium consisting of Subhankar Das, President, Bijoy Krushna Das, Vice President and Anirudha Mahapatra, Vice President, conducted the proceedings of this Organizational Convention. Rabinarayan Mallick, Chairman of the Reception Committee and President of Cuttack District Committee of CITU, welcomed the delegates and Janardan Pati, President, CITU, Odisha state committee, inaugurated the Organizational Convention thorough his deliberation. In his deliberation he underscored the anti-worker, anti-farmer and anti-people policies of present government at centre and called upon all to expose the bigoted hidden agenda of this BJP-RSS rule. He called upon all to give an united fight together against the divisive forces by strengthening democratic and trade union movements led by CITU, FMRAI and like-minded

organizations..

J S Majumdar, National Vice President of CITU, explained the grave peril of amalgamation of the labour laws into the four Labour Codes. He has explained in lucid details the NDA government's motive in bringing these nefarious legislations to cut the rights of workers and peasants only to offer the Indian big business and multi-national corporation cheap, flexible and easy labour force and to hand-over lucrative agriculture business in India by exploiting the farmers and workers.

J S Majumdar stressed that the current NDA government is in a hurry to implement its 'Atmanirbhar Bharat' project in Agriculture and Food availability which basically is based upon the scheme of dismantling the hitherto developed food management structures, scheme of privatizing farm produce by domestic and foreign private players; and revolves around the design of corporatization of agriculture which is completely opposite to Self-Reliance in Agriculture and Food production, the inspired vision of independent India that emerged during the course of freedom movement. Like British rulers, the Modi government is making effort to transform the arduous question of food security and food availability into a matter of trade and market for reckless profit-making. Fighting the present fascist regime with firm workers-peasants unity is the call of the day, he argued.

Santanu Chatterjee, General Secretary, FMRAI, elaborately discussed how the pharmaceuticals industry has reoriented its strategies with the excuse of the pandemic in the present context to maximize profit by attacking and exploiting the field workers ruthlessly. He also explained the need of strengthening the council movement for fighting unitedly against the organized attacks of the employers. He emphasized on the significance of segmental approach in the task of attracting the field workers to the organization and expanding the organization by giving them of membership. He appreciated the initiative of OSRU in organizing physical meeting by involving the leading functionaries of the union in the new situation to accomplish the

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# Countrywide resistance against onslaught on the field workers

Bharat Serums

During pandemic situation of the country like many other employers in the pharmaceutical industry the management of Bharat serums took the nefarious stand of downsizing the number of field workers in the company and the management of has resorted to mass transfer of around 70 sales

promotion employees to distant places from their existing head quarters with malafide intention including the council leadership. In protest the sales promotion employees of Bharat Serums have resorted to successful one day lightning strike on 6th October, 2020.

Though several communications

has been made by FMRAI protesting these malafide transfer orders but management remained silent. On the contrary, the management stopped the salaries of the field workers. Legal complaint has also been lodged at Mumbai.

Purported domestic enquiries

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## New patent rules will cause Adverse impact on public health compromising self-reliance

Recent amendment to patent rules (Patent Amendment Rules 2020) by Government of India has significantly diluted patent working disclosure norms. This action is incidental to the pressure exerted by Multinational Corporations and the United States of America on the Indian government for further liberal and more unbridled monopoly rights on patented inventions, especially drugs. The present amendment will help MNCs in profiteering, damage the prospects of compulsory licensing, affect public health most adversely besides compromising self-reliance of the country in production on new and essential drugs and non-worked patented drugs.

In the Patent (Amendment) Rules, 2020 previous version of Form 27 (Patent Rules 2003) has been amended and watered down. The unique provision of section 146(2) of Indian Patent Act 1970 requires a patent holder (and its licensee), to submit to the Patent Office an annual statement that will provide all information and details regarding working of patented inventions in India (that is, the patent holder of a drug will inform to what extent, the patented drug has been manufactured, imported and made available in India). As per Indian Patent law patented invention cannot be kept idle. Indian Patent law mandates that the inventions are duly worked in India and are made available in sufficient quantity at reasonable prices. If the patent holder fails to do this the Controller General of Patents will issue compulsory license to other potential manufacturers and subsequently may revoke patent right.

Form 27 is a disclosure statement that enables the patent office to get the valuable data on working of patent and this disclosure plays a vital role in compulsory licensing. The first compulsory license (and only, as yet) in India of multinational company Bayer's patented anti-cancer drug Nexavar (Sorafenib tosylate), where Indian company Natco was granted compulsory license, was based on such disclosure statement of Bayer.

Therefore, Form 27 disclosure statement is very important. All patent holding companies, including the MNCs, were required to make this disclosure in previous version of Form 27 as per Patent Rules 2003. It is a statutory obligation (under Patent Act 1970) of the patent holders to

submit this and thereafter of the patent office and the Government to enforce this. But most of the MNCs continued to flout this rules, failed to file annual return to patent office and in many instances did not make any disclosure (calling it 'confidential' and 'trade secret'). In some instances, they did it in incomplete, evasive or defective manner. One public interest litigation was filed by Shamnad Basheer before the Delhi High Court in 2015, arguing that such non-disclosure and defective disclosure should attract appropriate action by the Government. The PIL sought sufficient mechanism for ensuring concrete 'patent-working documents'

The court expressed concern and directed the Government to address the issue. Government undertook before the court that appropriate measure will be taken to strengthen disclosure provisions. But they did just the opposite. Instead of strengthening the mechanism of getting the details of patent working the Government further diluted this mechanism. In Patent Rules 2003 the patent holder (and its licensee) is required to state what quantum and value of the patented invention has been produced by the patentee (and its licensee), what quantum and value of imports have been made, the name of the countries from where it was imported, details of licensees and sub licensees granted during the year and also required to state clearly 'whether public requirement has been met partly/adequately/to the fullest extent at reasonable price'. In amended Rules (2020) many of these details, including the statement on quantum of production and import, have been omitted. In amended rules the patent holder (and also its licensee) need not to state whether public requirement of the patented invention has been met partly, adequately or to the fullest extent at reasonable price. Rules 2003 mandates to 'give whatever details are available', while the rules 2020 mandates to limit all information within 500 words.

Compulsory licensing is an essential tool to make newly invented drugs available and affordable. There are many examples where patented drugs are not available as they are not manufactured (not worked) in the country in sufficient quantity to meet the reasonable requirement

of public health. Imports too are insufficient. Any patented drug is a highly-priced drug as well and therefore, even if it becomes available, it does not become affordable for common people or for national health programmes. While 'patent' itself is a system of monopoly (exclusive right of the patentee to manufacture, import, market and sale), non-working of patented drug creates a monopoly of worst type. Many nations suffer from this problem. The population cannot access the benefits of the advances in medical science (and science, in general).

Through years of consistent struggle, this unique provision of Indian Patent Act, 1970, compulsory licensing provision, which many nations do not have, has been retained even after its amendment (in compliance with TRIPS agreement). Industrialized countries and MNCs do not like compulsory licensing and this provision impedes their reckless profiteering with their patented drugs. Therefore, they are consistently putting pressure on Government of India to weaken or circumvent the compulsory licensing provision to which the NDA government is surrendering bit by bit. Retrograde amendment of patent rule is the latest action besides other actions surrendering countries interest in the matter of public health and self-reliance in essential drug production. It is to be stressed that compulsory licensing is an essential provision which cannot be compromised. If the MNCs are not made to give information of their patent working, through statutory provisions and administrative measures, then compulsory licensing is prevented, before-hand and preemptively. This leads to uncontrolled patent abuse and profiteering with patented invention which will adversely affect public health cutting availability and affordability. Therefore, the Government should scrap this amendment and bring new amendment strengthening patent working disclosure documentation provision, impose accountability and transparency upon the patentee, build up administrative measures and increase oversee of the office of the Comptroller General of Patent. This will only help prove the transparency claim of the NDA government and also serve the cause of public health.