

Law Assignment

Q1. What is the Ethical Dilemma confronted by the managers in a culturally diverse organisation and critically assess the utilities of the ethical framework to assist the managers to respond to the dilemma?

Often there arises a problem for the managers in an organisation that are diverse and complicated in nature. The responsibility of the managers in this situation is to identify the factors accordingly as they do not have proper training. As a result, it becomes difficult for the managers to understand the rise of such problems. Therefore, the managers of the organisation have to understand the factors, and respond to the factors sensitively (Griggs, Clarke & Iredale, 2009). The decision making process requires the acceptance of the consequences of our actions.

When an ethical issue arises in an organisation, the managers have to identify the problem and develop alternate steps by using ethical reasoning procedure. This section is complicated for the managers as they lack the knowledge of ethics' and hence are not able to produce quality solutions. However, there are some principles that are necessary to follow. The managers have to make sure that they follow proper law and ethics to make sure that they are not going in the wrong direction. The managers have to make sure that they are not hurting anyone's sentiments by taking the steps. The managers have to make sure that they are,

- Not Violating anyone's right
- Fair-minded
- Process to resolve the dilemma
- Follow basic virtue

The managers have to think fairly and make sure that they follow their natural virtue that includes sincerity, truthfulness, dependable, answerable and trustworthiness. The manager should be responsible for one's action and should provide appropriate justification for the same. The solution for this type of dilemma for the managers is corporate governance lessons that can be helpful for the managers to remove the ethical issues (Griggs, Clarke & Iredale, 2009). The managers should undergo proper training of risk management that will increase the ability of the managers to handle the situation responsibly.

They have to properly identify the situation or issue and apply code of conduct and make an useful judgment to attend to the issue. The managers have to perform a good brainstorming to develop proper solutions to create a course for the action. Apart from these factors, the

managers have to analyse the threats accordingly and prepare the solutions for that as well. However if the problem still exists, the best guidance is consultation. Appropriate suggestion through consultation is possible and this will help the managers to review the matter and understand the possible hurdles to determine the best solution. This will help the managers to assess the action plan and implement it accordingly to make sure that they are capable enough to resort the problems. The managers have to understand the values and attitudes to understand the matter and accordingly design the plan. This is the best for the managers to use the decision-making tools based on ethics to respond to the dilemma faced by them in organisation respectively (Griggs, Clarke & Iredale, 2009).

Q2. Evaluate the Manager's role in contractual disputes in modern business organisations

Contractual disputes involve a lot of money that affects the organisation performance. Disputes involve direct and indirect costs. Direct costs for disputes are legal service, arbitration, consultation and resources. Indirect cost for disputes includes hindrance in the project, unfavourable performance of the project, reduced confidence to name a few (Griggs, Clarke & Iredale, 2009). The manager's role in this regard is considerably important as it involves a lot of planning to overcome the issues. The managers have to find appropriate solutions to the same and make sure that they develop appropriate strategies to control the risk and minimise it. In order to diminish the dispute, the manager can follow the effective stages provided by the law that are the underlying resolution principles to reduce the argument. The principles are,

- Develop pragmatic plan, sustain the precision
- Guarantee that contract represents method to resolve issues
- Ensure appropriate process and fairness
- Escalate the issue to superior level if required
- Attempt to resolve the issues by negotiation and avoiding legal proceedings
- Assistance of skilled catalyst to minimise or diminish the issues

In order to avoid any sort of disputes or issues, the company has to make sure to consider these criteria before entering any contract. Appropriate dispute management system will undergo a good process to point out an agreed acceptable outcome. The process involves,

- Deciphering the exertion and discussion
- Intervention

- Conciliation
- Pacification
- Settlement
- Regulation

Therefore, the managers have to look in to these matters effectively to make sure that these sections are looked after carefully and appropriate decisions are made to overcome any problem without any assistance of law (mosaicprojects.com.au, 2015). However there are other techniques as well that helps in the prevention of disputes. There are some basic techniques that will help to minimise the issues and they are,

- Apparent Measurement
- Comprehensible Communication Code of Behaviour
- Practical Issue Supervision

The best skill in this factor is to avoid or stay out of disputes as a prevention technique. The manager has to make sure that these factors exist in the contract so that no problem arises at a later stage. A proper communication channel will help them to maintain transparency among the parties and will help to increase the performance and productivity respectively. The manager has to make sure in providing a clear specification to make the contract compact and valid (anao.gov.au, 2015).

As per the Fair Act 2009 (FW Act), it states the process for solving the problems between the organisation and the employees and the managers have a vital role to play in this regard (fairwork.gov.au, 2015). They have to make sure that the employees are able to discuss the issue to the administrator. Accordingly, the level will increase if the issue does not get fixed and at a later stage, the matter will enter into Fair Work Commission if the upper management fails in solving the issue of the employee and thus the importance of manager arises.

Q3. Analyse the Legal Status of the agreement between Messi and Victorian Government

The legal status between Messi and the Victorian government is currently facing injunction from the local residents as the mining has caused enough trouble to the local residents and the nearby areas including the Melbourne airport. Therefore, the legal status between Victorian government and Messi is currently on a rough patch as the Victorian government is facing

many issues from the Supreme Court. The court has asked to stop the mining and wait for an independent review. Inappropriate steps have led to a situation and both the parties are facing problems.

Earlier the Victorian government has faced many issues regarding the drilling issues, as there were much opposition to the matter. Due to the negligence of these factors, the Victorian government is now facing issues with Messi. However, Victorian government stated in the contract that the contract is valid only if Messi does not drill within 400 metres of residential areas or within 100 Metres of garden or orchard without the written consent from the owners. The fault made by Messi or ignored has troubled the government and the company respectively. Appropriate consent from the residents would have saved them.

The Victorian government entered into public and private partnership on January 2014 for the development of the project, the government made it clear that profit on the sale of Gas should be profitable. At this stage, Messi had entered into a written agreement with Chavez Consultant that has the resources of engineers, geologists, and surveyors who will be managing the entire project on behalf of Messi. Therefore, the Victorian government, Messi, and Chavez consultant faced legal obligation that has resulted to pause the work since the residents of the area are facing immense trouble like electricity failure, and other exploitation.

The contractual and commercial implication if the injunction by the local residents is successful

If the injunction is successful, the contractual and commercial implication that will arise between Messi and Chavez will have the scope of arguing on the matter. Since the organisation “Chavez Consultants” has enormously discussed about their credibility in handling big projects, the company will have the authority in asking the matter effectively. Chavez will face the obligation because the communication is the biggest evidence in this matter. All the communication has happened over the emails and texts that becomes an evidence for Messi to survive the Injunction. Chavez and Robben who was a local contractor and handled the matter for Chavez consultants will face the questions. However, the problem that lies in the matter that the production of drilling is stopped which has incurred many funds and therefore the company is facing a huge loss over this issue. There is more to this other than the accusation of Chavez and Robben. Since, Chavez has hired Robben for the job, the evidence of the communication is stored in email stating that the drilling has to be delivered by the end of April and to this Robben has replied only over the email.

However, during the drilling it all was scrambled that brought the wires down that had resulted into power failures in the surrounding areas including the airport of Melbourne. Due to this power cut, business also was hampered of local stores. Since then there has been a rage of anger among the residents of area. Ultimately, the accusation will come up to Messi, Chavez and Robben for carrying out the work irresponsibly. Therefore, it will affect the business and there is a good base of arguing on the matter affecting the contractual terms among the companies respectively.

Analyse the Contract between Chavez, Robben, and threat of any legal action for Robben in this matter

According to the scenario, the contract between Chavez and Robben is to start the drill test. The contract further specifies that the drill needs to delivered and installed by April end so that the drilling can commence from May. Robben agreed to the matter over email. However, Chavez Consultants did not mention the fact that Drilling near residents until 400 meters were not allowed and the same goes for garden until 100 metres. If they had to drill, they had to take appropriate approval of the local residents in written forms. However, these factors were not mentioned to Robben that caused such a situation and hence no severe action can be taken on Robben for the matter.

The difficulty has to be faced by Messi because Chavez was not educated or informed on the matter as well. There are similar **cases** that have happened before in the **year 2007** between **O'Donnell Pty v Davis** regarding the construction of southwest railways popularly known as Perth to Mandurah railway that had contract with public transport authority. Many disputes that came up later regarding electrical systems and communication affected the project. The disputes were regarding compensation on the delay in project (fairwork.gov.au, 2015). The matter can be proved because the communication was in written form and hence there is a chance for Robben of not getting any legal actions from the government. The issue lied with Messi because they have not informed Chavez consultant on the criteria and hence Chavez did not inform the matter to Robben.

However, during the agreement with Victorian government, the contract clearly stated the criteria. The chances of Chavez facing the legal; action is probable because they had exaggerated on their experience level and handling such project in the past. However, Chavez has also stated that they have not managed any gas exploration. However, Messi and Chavez have undergone a specific agreement that states that they have to consult at every stage of the

project. However, the problem now lies is that on one side Messi has provided all sorts of information to Chavez but the consultants have failed to do their job in handling the matter effectively.

The next possibility is that Chavez did not consult with Messi during the progression of the project and therefore the possibility of facing legal action is highly possible for Chavez consultants as they did not have enough experience and therefore being friends from the university Messi had trusted Chavez on the matter. Therefore, it is not possible that Robben Pty Ltd will face any sort of legal action since the company was informed about the criteria and therefore no one can take action against local company.

Reference List

Book:

L Griggs, E Clarke & I Iredale, 2009. *Manager and the Law*, 3rd ed, Law book Co Thompson Reuters, pp. 15

Website:

mosaicprojects.com.au (2015), *Mosaic Project Services – Homepage*, Retrieved on: 26 Aug 2015 from: <http://www.mosaicprojects.com.au/>

anao.gov.au (2015), *The Australian National Audit Office*, Retrieved on: 26 Aug 2015, from: <http://www.anao.gov.au/>

fairwork.gov.au (2015), *Welcome to Fair work ombudsman website* Retrieved on: 26 Aug 2015 from: <http://www.fairwork.gov.au/>