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THE TRADE UNIONS ACT, 1926

INTRODUCTION

Trade Unionism has made its headway owing to growth of industrialization and capitalism. Trade Unionism asserts collectively the rights of the workers. In industrially advanced countries trade unionism has made a great impact on the social, political and economic life. India, being an agricultural country, trade unionism is restricted to industrial areas and it is still in a stage of growth. The earliest known trade unions in India were the Bombay Millhand's Association formed in 1890, the Amalgamated Society of railway servants of India and Burma formed in 1897, Printers' Union formed in Calcutta in 1905, the Bombay Postal Union which was formed in 1907, the Kamgar Hitwardhak Sabha Bombay formed in 1910. Trade Union movement began in India after the end of First World War. After a decade following the end of First World War the pressing need for the coordination of the activities of the individual unions was recognised. Thus, the All India Trade Union Congress was formed in 1920 on a National Basis, the Central Labour Board, Bombay and the Bengal Trades Union Federation were formed in 1922. The All India Railwaymen's Federation was formed in the same year and this was followed by the creation of both Provincial and Central federations of unions of postal and telegraph employees. The origin of the passing of a Trade Unions Act in India was the historic Buckingham Mill case of 1940 in which the Madras High Court granted an interim injunction against the Strike Committee of the Madras Labour Union forbidding them to induce certain workers to break their contracts of employment by refusing to return to work. Trade Union leaders found that they were liable to prosecution and imprisonment for bona fide union activities and it was felt that some legislation for the protection of trade union was necessary. In March, 1921, Shri N. M. Joshi, then General Secretary of the All India Trade Union Congress, successfully moved a resolution in the Central Legislative Assembly recommending that Government should introduce legislation for the registration and protection of trade unions. Opposition from employers to the adoption of such a measure was, however, so great that it was not until 1926 that the Indian Trade Unions Act was passed. The Indian Trade Unions Bill, 1925 was introduced in the Central Legislative Assembly to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions in Provinces of India.

STATEMENT OF OBJECTS AND REASONS

This Bill has been prescribed in response to the following Resolution which was adopted by the Legislative Assembly on 1st March, 1924:

"This Assembly recommends to the Governor-General in Council that he should take steps to introduce, as soon as practicable, in the Indian Legislature, such legislation as may be necessary for the registration of Trade Unions."

The question was examined in detail by the Government of India and local Governments were consulted and public opinion was invited. In the light of opinions received a draft Bill was prepared and published in September, 1924. The Government of India, after considering the criticisms received on that Bill, see no ground for modifying the general principles underlying the Bill, and except for minor alterations, the present Bill is a reproduction of the Bill previously published.

The general scheme of the Bill is that a Trade Union making the necessary application will, on compliance with certain stated conditions designed to ensure that the Union is a *bona fide* Trade Union, and that adequate safeguards are provided for the rights of its members, be entitled to registration. The Union and its members will thereupon receive protection in certain cases in respect of both civil and criminal liability. No restriction is placed upon the objects which a registered Trade Union may pursue, but the expenditure of its funds must be limited to specified Trade Union purposes. The legal position of Trade Unions which do not register will be unaffected by the Bill.

ACT 16 OF 1926

The Indian Trade Unions Bill, 1925 having been passed by the Legislature received its assent on 25th March, 1926. It came into force on 1st June, 1927 as the Indian Trade Unions Act, 1926 (16 of 1926).

By section 3 of the Indian Trade Unions (Amendment) Act, 1964 (38 of 1964) the word "Indian" has been omitted and now it is known as THE TRADE UNIONS ACT, 1926 (16 of 1926).

LIST OF AMENDING ACTS AND ADAPTATION ORDERS

1. The Indian Trade Unions (Amendment) Act, 1928 (15 of 1928).
2. The Government of India (Adaptation of Indian Laws) Order, 1937.
3. The Repealing and Amending Act, 1942 (25 of 1942).
4. The Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
5. The Adaptation of Laws Order, 1950.
6. The Part B States (Laws) Act, 1951 (3 of 1951).
7. The Indian Trade Unions (Amendment) Act, 1960 (42 of 1960).
8. The Indian Trade Unions (Amendment) Act, 1964 (38 of 1964).
9. The Central Labour Laws (Extension to Jammu and Kashmir) Act, 1970.

THE TRADE UNIONS ACT, 1926

(16 of 1926)¹

[25th March, 1926]

An Act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions ²[***]

WHEREAS it is expedient to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions ²[***].

It is hereby enacted as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, extent and commencement :- (1) This Act may be called the ³[***] Trade Unions Act, 1926.

⁴[(2) It extends to the whole of India ⁵[***].

(3) It shall come into force on such date ⁶as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.-In this Act ⁷["the appropriate Government" means, in relation to Trade Unions whose objects are not confined to one State, the Central Government, and in relation to other Trade Unions, the State Government, and], unless there is anything repugnant in the subject or context,-

(a) "Executive" means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;

(b) ⁸"[office-bearer]" in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor;

(c) "prescribed" means prescribed by regulations made under this Act;

(d) "registered office" means that office of a Trade Union which is registered under this Act as the head office thereof;

(e) "registered Trade Union" means a Trade Union registered under this Act;

⁹[(f) "Registrar" means-

1. For Statement of Objects and Reasons, see Gazette of India, 1925, Pt. V, p. 8, and for Report of Select Committee, see Gazette of India, 1925, Pt. IV, p. 197.

2. The words "in the Provinces of India" omitted by Act 42 of 1960, sec.2.

3. The word "Indian" omitted by Act 38 of 1964, sec.3.

4. Subs. by the A.O. 1950, for the former sub-section (2).

5. The words "except in the State of Jammu and Kashmir" subs. for the words "except Part B States" by Act 3 of 1951, sec.3 and Sch. and were omitted by Act 51 of 1970, sec. 2 and Sch.

6. Came into force on 1-6-1927, see Gazette of India, 1927, Pt. I, p.467.

7. Ins. by the A.O. 1937.

8. Subs. by Act 38 of 1964, sec.2, for "officer" (w.e.f. 1-4-1965).

9. Subs. by Act 42 of 1960, sec.3, for original clause (f)

- (i) a Registrar of Trade Unions appointed by the appropriate Government under section 3, and includes any Additional or Deputy Registrar of Trade Unions, and
- (ii) in relation to any Trade Union, the Registrar appointed for the State in which the head or registered office, as the case may be, of the Trade Union is situated;]
- (g) "trade dispute" means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and "workmen" means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises; and
- (h) "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:

Provided that this Act shall not affect-

- (i) any agreement between partners as to their own business;
- (ii) any agreement between an employer and those employed by him as to such employment; or
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

COMMENTS

- (i) Only the persons engaged in trade or business can form trade unions; Rangaswami v. Registrar of Trade Unions, AIR 1962 Mad 231.
- (ii) Primary purpose of a trade union is collective bargaining; Bank of India Employees' Association V. Reserve Bank of India, (1983) 2 LLN 872 (Bom).

CHAPTER II

REGISTRATION OF TRADE UNIONS

3. Appointment of Registrars.-¹[(1)] ²[The appropriate Government] shall appoint a person to be the Registrar of Trade Unions for ³[each state].

⁴[(2) The appropriate Government may appoint as many Additional and Deputy Registrars of Trade Unions as it thinks fit for the purpose of exercising and discharging, under the superintendence and direction of the Registrar, such powers and functions of the Registrar under this Act as it may, by order, specify and define the local limits within which any such Additional or Deputy Registrar shall exercise and discharge the powers and functions so specified.

1, Section 3 re-numbered as sub-section (1) thereof by Act 42 of 1960, Sec.4.

2. Subs. by the A. O. 1937, for "Each L.G."

3. Subs. by the A.O. 1937, for "the Province".

4. Ins. by Act 42 of 1960, sec.4.

(3) Subject to the provisions of any order under sub-section (2), where an Additional or Deputy Registrar exercises and discharges the powers and functions of a Registrar in an area within which the registered office of a Trade Union is situated, the Additional or Deputy Registrar shall be deemed to be the Registrar in relation to the Trade Union for the purposes of this Act.]

COMMENTS

The Registrar has power to enquire about the legality of the new election of the office-bearers of a Trade Union; Mohan Lal v. Registrar of Trade Unions, 1983 Lab IC 1883.

4. Mode of registration.¹[(1) Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act.

²[(2) Where an application has been made under sub-section (1) for the registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application, but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the application.]

5. Application for registration.-(1) Every application for registration of a Trade Union shall be made to the Registrar and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars, namely:-

- (a) the names, occupations and address of the members making application;
- (b) the name of the Trade Union and the address of its head office; and
- (c) the titles, names, ages, addresses and occupations of the ³[office-bearers] of the Trade Union.

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

6. Provisions to be contained in the rules of a Trade Union.-A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely:-

- (a) the name of the Trade Union;
- (b) the whole of the objects for which the Trade Union has been established;
- (c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

1. Section 4 re-numbered as sub-section (1) thereof by Act 42 of 1960, sec. 5.

2. Ins. by Act 42 of 1960, sec. 5.

3. Subs. by Act 38 of 1964, sec.2, for "officers" (w.e.f. 1-4-1965).

- (d) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the ¹[office-bearers] and members of Trade Union;
- (e) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as ¹[office-bearers] required under section 22 to form the executive of the Trade Union;
- ²[(ee) the payment of a subscription by members of the Trade Union which shall be not less than twenty-five naye paise per month per member;]
- (f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;
- (g) the manner in which the rules shall be amended, varied or rescinded;
- (h) the manner in which the members of the executive and the other ¹[office-bearers] of the Trade union shall be appointed and removed;
- (i) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the ¹[office-bearers] and members of the Trade Union; and
- (j) the manner in which the Trade Union may be dissolved.

7. Power to call for further particulars and to require alterations of names.-

(1) The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

(2) If the name under which a Trade Union is proposed to be registered is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made.

8. Registration.- The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

COMMENTS

- (i) The Registrar is not a quasi-judicial authority and cannot, therefore, decide any disputed question of fact or law; O.N.G.C. Workmen's Association v. State of West Bengal, (1988) 57 FLR 522 (Cal).
- (ii) Provisions of this section relate to only registration of a trade union, It is only a Civil Court which has jurisdiction to decide that dispute since under the Trade Unions Act.) here is no provision permitting or empowering the Registrar to refer internal disputes relating to office-bearer for adjudication to any other forum: R.N. Singh v. State of Bihar, 1998 LLR 645.

1. Subs. by Act 38 of 1964. Sec.2, for "officers" (w.e.f. 1-4-1965).

2. Ins, by Act 42 of 1960. sec. 6.

9. Certificate of registration.-The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act.

COMMENTS

- (i) The certificate of registration continues to hold good until it is cancelled; IFFCO, Phulpur Karamchari Sangh v. Registrar of Trade Unions, (1992) II, LLJ 239 (All).
- (ii) The registration gives a stamp of due formation of the Trade Union and assures the mind of the employer that the Trade Union is an authenticated body. The names and occupation of whose office-bearers also become known; Food Corporation of India Staff Union v Food Corporation of India, 1995 LLR 309 (SC) 3 JJ.

10. Cancellation of registration.-A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar-

- (a) on the application of the Trade Union to be verified in such manner as may be prescribed;
- (b) if the Registrar; is satisfied that the certificate has been obtained by fraud or mistake or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision or has rescinded any rule providing for any matter provision for which is required by section 6:

Provided that not less than two months previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

COMMENTS

- (i) Registration of a trade union, once registered, cannot be cancelled save and except under section 10; Phillips Workers Union v. Registrar of Trade Unions, (1989) 58 FLR 58 (Cal).
- (ii) The Order of cancellation of registration of Trade Union passed by the Registrar without hearing the Union is violative of principles of natural justice and illegal, hence liable to be quashed; Nagda Rashtra Sevak Karamchari Congress v. Industrial Court, 1997 (77) FLR 139.

¹[**11. Appeal.** -(1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal-

(a) where the head office of the Trade Union is situated within the limits of a Presidency town ²{***} to the High Court, or

(b) where the head office is situated in any area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction as the ³[Appropriate Government] may appoint in this behalf for that area.

(2) The appellate court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order or withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

1. Subs. by Act 15 of 1928. sec. 2, for the original section 11.

2. The words "or of Rangoon" omitted by the A.O. 1937.

3. Subs. by the A.O. 1937, for "L.G.".

(3) For the purpose of an appeal under sub-section (1) an appellate court shall, so far as may be, follow the same procedure and have the same power as it follows and has when trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any court appointed under clause (b) of sub-section (1) the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly.)

COMMENTS

The order of cancellation of the registration of a trade union cannot be withdrawn or revoked by the Registrar. Only remedy is to go in appeal or apply for re-registration: *Rashtriya Mukund Employees Union V. Mukund Iron and Steel Works Ltd.* (1987) 55 FLR 507 (Bom)

12. Registered office.-All communications and notices to a registered Trade Union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing and the changed address shall be recorded in the register referred to in section 8,

13. Incorporation of registered Trade Union.-Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

COMMENTS

“Body corporate” means a succession or collection of persons having in the estimation of the law in existence and rights and duties distinct from those of the individual persons who form it from time to time: *Saloman V. Saloman & Co. Ltd.* 1897 AC 22.

14. Certain Acts not to apply to registered Trade Unions.- The following Acts namely- .

(a) The Societies Registration Act, 1860 (21 of 1860)

(b) The Co-operative Societies Act, 1912 (2 of 1912)

¹[(C) The Companies Act. 1956 (1 of 1956)]

shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

CHAPTER III RIGHTS AND LIABILITIES OF REGISTERED TRADE UNIONS

15. Objects on which general funds may be spent.- The general funds of a registered Trade Union shall not be spent on any other objects than the following.-namely:--

1. Subs. by Act 42 of 1960. sec. 7. for original clause (e). The original clauses (e) and (d) were repealed by the Act 25 of 1942, sec. 2 and Sch. 1.

- (a) the payment of salaries, allowances and expenses to ¹[office-bearers] of the Trade Union;
- (b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union;
- (c) the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employ;
- (d) the conduct of trade disputes on behalf of the Trade Union or any member thereof;
- (e) the compensation of members for loss arising out of trade disputes;
- (f) allowances to members or their dependants on account of death, old age, sickness, accidents or unemployment of such members;
- (g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or (under) policies insuring members against sickness, accident or unemployment;
- (h) the provision of education, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members;
- (i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such;
- (j) the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year; and
- (k) subject to any conditions contained in the notification, any other object notified by the ²[appropriate Government] in the Official Gazette.

16. Constitution of a separate fund for political purposes.-(1) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

(2) The objects referred to in sub-section (1) are:-

- (a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under ³[***] ⁴[the Constitution] or of any local authority, before, during, or after the election in connection with his candidature or election; or

1. Subs. by Act 38 of 1964, sec.2, for "officers" (w.e.f. 1-4-1965).

2. Subs. by the A.O. 1937, for "G.G. in C".

3. The words and figures "the Government of India Act, or the Government of India Act, 1935, or" omitted by Act 42 of 1960, sec.8.

4. Ins. by the A.O. 1950.

(b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

(c) the maintenance of any person who is a member of any legislative body constituted under ¹(***)²(the Constitution] or for any local authority; or

(d) the registration of electors or the selection of a candidate for any legislative body constituted under ¹(***)²(the Constitution] or for any local authority; or

(e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

³[(2A) In its application to the State of Jammu and Kashmir, references in sub-section (2) to any legislative body constituted under the Constitution shall be construed as including references to the Legislature of that State.]

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1); and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

17. Criminal conspiracy in trade disputes.—No ⁴(office-bearer] or member of a Registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code, 1860 (45 of 1860) in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.

18. Immunity from civil suit in certain cases.—(1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any ⁴(office-bearer] or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Unions.

1. The words and figures "the Government of India Act, or the Government of India Act, 1935, or" omitted by Act 42 of 1960, sec.8.

2. Ins. by the A.O.1950.

3. Ins. by Act 51 of 1970, sec.2 and Sch.

4. Subs. by Act 38 of 1964, sec.2, for "officer" (w.e.f. 1-4-1965).

COMMENTS

- (i) A Civil Court has jurisdiction to entertain suit and grant an interim injunction; Indian Express Newspapers (Bom) Pvt. Ltd, v, T.M, Nagarajan, (1988) 72 FIR 489 (Delhi),
- (ii) Immunity to a trade union leader (such as the President} is not available when he is discharged after holding an enquiry into his misconduct; West India Steel Co, Ltd. v, Azeez. 1990 LLR 142 (Ker),
- (iii) A workman, even if he is a trade union leader, inside the factory, is bound to obey the reasonable instructions given to him by the superiors and to carry out his duties duly assigned to him; West India Steel Co. Ltd, v, Azeez, 1990 LLR 142 (Ker).
- (iv) It is not within the purview of the civil court to prevent or interfere with the legitimate rights of the workmen to persue their demands by means of strike or otherwise as also acts done in furtherance of a trade dispute; Ahmedabad Textile Research Association v, ATIRA Employees' Union, 1995 LLR 91 (Guj) DB.

19. Enforceability of agreements.-Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods transact business, work, employ or be employed.

COMMENTS

The recognition of a trade union is not regulated by any statutory provision. The trade union cannot enforce the right of recognition against the management by a writ petition. An agreement ought to have been entered into between the trade union and the management for granting recognition; Workmen of Kampli Co-op, Sugar Factory Ltd, v. Management of Kampli Co-op Sugar Factory Ltd" (1995) 1, LLJ 727 (Karn),

20. Right to inspect books of Trade Union.- The account books of a registered Trade Union and the list of members thereof shall be open to inspection by an ¹[office- bearer] or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

21. Rights of minors to membership of Trade Unions.-Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules:

²[**]

³[**21A. Disqualifications of office-bearers of Trade Unions.**-(1) A person shall be disqualified for being chosen as, and for being member of the executive or any other office-bearer of a registered Trade Union if-

- (i) he has not attained the age of eighteen years;

1. Subs, by Act 38 of 1964, sec.2, for "officer" (w.e.f. 1-4-1965),

2, Proviso omitted by Act 38 of 1964, sec, 4 (w.e.f, 1-4-1965).

3, Ins. by Act 38 of 1964, sec, 5.

(ii) he has been convicted by a court in India of any offence involving moral turpitude and sentenced to imprisonment, unless a period of five years has elapsed since his release.

(2) Any member of the executive or other office-bearer of a registered Trade Union who, before the commencement of the Indian Trade Unions (Amendment) Act, 1964, has been convicted of any offence involving moral turpitude and sentenced to imprisonment, shall on the date of such commencement cease to be such member or office-bearer unless a period of five years has elapsed since his release before that date.]

¹[(3) In its application to the State of Jammu and Kashmir, reference in sub-section (2) to the commencement of the Indian Trade Unions (Amendment) Act, 1964, shall be construed as reference to the commencement of this Act in the said State.]

22. Proportion of officers to be connected with the industry.-No less than one-half of the total number of the ²[office-bearers] of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Unions connected:

Provided that the ³[appropriate Government] may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

COMMENTS

"Officer" would mean a person who is not practising as an advocate though he might have practised earlier to his becoming an officer; Andhra Pradesh Engineers Association Generation Wing, Kothagudem Thermal Power Station Zone, Paloncha v. Andhra Pradesh State Electricity Board, Hyderabad; 1996 (1) LLJ 1082.

23. Change of name.-Any registered Trade Union may, with the consent of not less than two thirds of the total number of its members and subject to the provisions of section 25, change its name.

24. Amalgamation of Trade Unions.-Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such Trade Union entitled to vote are recorded, and that at least sixty per cent of the votes recorded are in favour of the proposal.

COMMENTS

(i) "Amalgamation" means and implies at least two societies which can be merged with each other. The mere change of name of a particular society cannot be held to mean or to result in amalgamation; The Banis Co-op. Thrift & Agricultural Credit Society Ltd. v. State of Punjab. 1979 Rev LR 254 (DB).

(ii) On merger or association the Trade Union and its office-bearers do not lose their identity; Rattan Kumar Dey v. Union of India, (1991) 63 FLR 463 (Gau.).

25. Notice of change of name or amalgamation.-(1) Notice in writing of every change of name and of every amalgamation signed, in the case of a change of name, by the Secretary and by seven members of the Trade Union changing its name, and in the case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar and where the head office of the amalgamated Trade Union is situated in a different State, to the Registrar of such State.

1. Ins. by Act 51 of 1970, sec.2 and Sch.

2. Subs. by Act 38 of 1964, sec.2, for "officers" (w.e.f. 1.4.1965).

3. Subs. by the A.O. 1937. for "L.G.".

(2) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register referred to in section 8, and the change of name shall have effect from the date of such registration.

(4) The registrar of the State in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

26. Effects of change of name and of amalgamation.-(1) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(2) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any of such Trade Unions or any right of a creditor of any of them.

27. Dissolution.-(1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

28. Returns.-(1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of ¹[December] next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of ¹[December]. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement there shall be sent to the Registrar a statement showing changes of ²[office-bearers] made by the Trade Union during the year to which the general statement refers together also with a copy of the rules of the Trade Union corrected upto the date of the despatch thereof to the Registrar.

1. Subs. by Act 38 of 1964, sec.6. for "March" (w.e.f. 1-4-1965).

2. Subs. by Act 38 of 1964, sec.2, for "officer" (w.e.f. 1-4-1965).

(3) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

¹[(4) For the purpose of examining the documents referred to in sub-sections (1), (2) and (3), the Registrar, or any officer authorised by him by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers, and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than ten miles from the registered office of a Trade Union.]

CHAPTER IV REGULATIONS

29. Power to make regulations.-(1) ²[***] The ³[appropriate Government] may make regulations for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters namely:-

- (a) the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration;
- (b) the transfer of registration in the case of any registered Trade Union which has changed its head office from one State to another;
- (c) the manner in which, and the qualifications by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited;
- (d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections; and
- (e) any matter which is to be or may be prescribed.

30. Publication of regulations.-(1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

(3) Regulations as made shall be published in the Official Gazette, and on such publication shall have effect as if enacted in this Act.

CHAPTER V PENAL TIES AND PROCEDURE

31. Failure to submit returns.-(1) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as

¹ Ins. by Act 42 of 1960, sec.9.

² The words "Subject to the control of the G.G. in Council" omitted by the A.O. 1937.

³ Subs. by the A.O. 1937, for "L.G".

required by or under any provision of this Act, every ¹[office-bearer] or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such officer or person, every member of the executive of the Trade Union, shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues:

Provided that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28 or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

COMMENTS

In case of delay in filing an amendment to the constitution of the Trade Union, the Registrar can impose a fine under section 31 instead of refusing to incorporate such amendment; *Delhi Hindustani Mercantile Association v. Delhi Administration*, 1990 LLR 234 Del.

32. Supplying false information regarding Trade Unions.—Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he /knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of an unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

33. Cognizance of offences.—(1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

1. Subs. by Act 38 of 1964, sec.2, for "officer" (w.e.f. 1-4-1965).

THE CENTRAL TRADE UNION REGULATIONS, 1938¹

In exercise of the powers conferred by section 29 of the Indian Trade Unions Act, 1926 (16 of 1926), and by the said section of the said Act as in force in Berar, the Central Government is pleased, in relation to Trade Unions whose objects are not confined to one ²[State], to make the following regulations, the same having been previously published as required by sub-section (1) of section 30 of the said Act, namely:-

1. Title and application.-(1) These regulations may be called the Central Trade Union Regulations, 1938.

(2) The regulations apply to Trade Unions whose objects are not confined to one ²[State].

2. Definitions.-In these regulations-

(a) "the Act" means the Indian Trade Unions Act, 1926.

(b) "Form" means a form appended to these regulations.

(c) "section" means a section of the Act.

3. Application for registration.-Every application for registration of a Trade Union shall be made in Form A.

4. Register of Trade Unions.- The Register of Trade Unions referred to in section 8 shall be maintained in Form B.

5. Certificate of registration.-(1) The Certificate of Registration issued by the Registrar under section 9 shall be in Form C.

(2) When the Registrar registers a change of name under section 25, sub-section (3), he shall certify under his signature at the foot of the certificate on its presentation to him by the Secretary that the new name has been registered.

6. Cancellation of registration.- The Registrar on receiving an application for the cancellation of registration shall, before granting the application, satisfy himself that the withdrawal or cancellation of registration was approved by a general meeting of the Trade Union, or if it was not so approved, that it has the approval of the majority of the members of the Trade Union. For this purpose, he may call for such further particulars as he may deem necessary and may examine any officer of the Union.

7. Unions registered with ³[State] Registrars.-If the application is made by a Trade Union which has previously been registered by the Registrar of any ²[State] the union shall submit with its application a copy of the certificate of registration granted to it and copies of the entries relating to it in the Register of Trade Unions for the ²[State].

8. Fees.-The fee payable for the registration of a Trade Union shall be Rs.5.

1. Vide Notification No. L-1785, dated 16th June, 1938.

2. Subs. by the A.O. 1950 for "Province".

3. Subs. by the A.O. 1950 for "Provincial".

9. Amendment of rules.-(1) On receiving a copy of an application made in the rules of a Trade Union under section 28(3), the Registrar, unless he has reason to believe that the alteration has not been made in the manner provided by the rules of the Trade Union, shall register the alteration in a register to be maintained for this purpose and shall notify the fact that he has done so to the Secretary of the Trade Union.

(2) The fee payable for registration of alteration of rules shall be Re.1 for each set of alterations made simultaneously.

10. Appeals.-Any appeal made under section 11(1) of the Act must be filed within sixty days of the date on which the Registrar passed the order against which the appeal is made.

11. Funds of a dissolved Trade Union.-Where it is necessary for the Registrar, under section 27(2) to distribute the funds of a Trade Union which has been dissolved, he shall divide the funds in proportion to the amounts contributed by the members by way of subscription during his membership.

12. Return.-The annual return to be furnished under section 28 shall be submitted to the Registrar by the 31st day of July in each year and shall be in Form D.

13. Auditors.-(1) Save as provided in sub-clauses (2), (3), (4) and (5) of this regulation, the annual audit of the account of any registered Trade Union shall be conducted by an auditor authorized to audit the accounts of companies under section 144(1) of the Indian Companies Act, 1913 or under section 3(2) of the Indian Companies (Amendment) Act, 1930.

(2) Where the membership of Trade Union did not at any time during the financial year exceed 2,500, the annual audit of the accounts may be conducted-

- (a) by any examiner of local fund accounts; or
- (b) by any local fund auditor appointed by the ¹[State] Government; or
- (c) by the person, who, having held an appointment under Government in any audit or accounts department, is in receipt of a pension of not less than Rs. 200 per mensem.

(3) Where the membership of a Trade Union did not at any time during the financial year exceed 750, the annual audit of the accounts may be conducted-

- (a) by any two persons holding office as magistrates or judges or as members of any municipal council, district board, or legislative body; or
- (b) by any person, who, having held an appointment under Government in any audit or accounts department, is in receipt of a pension from Government of not less than Rs.75 a month, or
- (c) by any auditor appointed to conduct the audit of any co-operative societies by Government or by the Registrar of Co-operative Societies or by any ¹[State] co-operative organization recognized by Government for this purpose.

(4) Where the membership of a Trade Union did not at any time during the financial year exceed 250, the annual audit of the accounts may be conducted by any two members of the Union.

1. Subs. by the A.O. 1950 for "Provincial".

(5) Where the Trade Union is a federation of unions, and the number of unions affiliated to it at any time during the financial year did not exceed 50, 51 or 5, respectively, the audit of the accounts of the federation may be conducted as if it had not at any time during the year had a membership of more than 2,500, 750 or 250, respectively.

14. Exception.-Notwithstanding anything contained in Regulation 13, no person, who, at any time during the year, was entrusted with any part of the funds or securities belonging to the Trade Union shall be eligible to audit the accounts of that Union.

15. Audit.- The auditor or auditors appointed in accordance with the regulations shall be given access to all the books of the Trade Union and shall verify the annual return with the accounts and vouchers relating thereto and shall thereafter sign the auditor's declaration appended to Form D, indicating separately on that form under his signature or their signatures a statement showing in what respect he or they find the return to be incorrect, unvouched or not in accordance with the Act. The particulars given in this statement shall indicate-

- (a) every payment which appears to be unauthorized by the rules of the Trade Union or contrary to the provisions of the Act,
- (b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person,
- (c) the amount of any sum which ought to have been but is not brought to account by any person.

16. Audit of political funds.- The audit of the political funds of a registered Trade Union shall be carried out alongwith the audit of the general account of the Trade Union and by the same auditor or auditors.

17. Inspection.-(1) The register of Trade Unions maintained in accordance with Regulation 4 shall be open to inspection by any person on payment of a fee of annas eight.

(2) Any documents in the possession of the Registrar received from a registered Trade Union may be inspected by any member of that Union on payment of a fee of annas eight for each document inspected.

(3) Documents shall be open to inspection every day on which the office of the Registrar is open and within such hours as may be fixed for this purpose by the Registrar.

(4) The Registrar may supply a Certified copy of any such document to a registered Trade Union or a member thereof on payment of annas twelve for the first two hundred words (or less) and annas six for every additional hundred words or fractional part thereof.

FORM A**APPLICATION FOR REGISTRATION OF TRADE UNION**

Date the Day of19.....

1. We hereby apply for the registration of a Trade Union under the name of
2. The address of the head office of the Union is
3. The Union came into existence on the..... day of..... 19
4. The Union is a Union of employers/workers engaged in the industry (or profession).
5. The particulars required by section 5(1)(c) of the Indian Trade Unions Act, 1926, are given in Schedule I.
6. The particulars given in Schedule II show the provisions made in the rules for the matters detailed in section 6 of the Indian Trade Unions Act, 1926.
7. (To be struck out in the case of unions which have not been in existence for one year before the date of application). The particulars required by section 5(2) of the Indian Trade Unions Act, 1926, are given in Schedule* III.
8. We have been duly authorized to make this application.

Signature	Occupation	Address	Signed
1			
2			
3			
4			
5			
6			
7			

To the Registrar of Central Trade Unions, Delhi

SCHEDULE I – LIST OF OFFICERS

Title	Name	Age	Address	Occupation
-------	------	-----	---------	------------

Note. - Enter in this Schedule the names of all members of the executive of the Union showing in column 1 the names of any posts held by them (e.g.. President, Secretary, Treasurer, etc.) in addition to their offices as members of the executive.

* State here whether the authority was given by a resolution of a general meeting of the Union, if not, in what other way it was given.

SCHEDULE II – REFERENCE TO RULES

The numbers of the rules-making provisions for the several matters detailed in column 1 are given in column 2 below

S.no.	Matter 1	Number of Rules 2
1	Name of union	
2	The whole of the objects for which the union has been established.	
3	The whole of the purposes for which the general funds of the union shall be applicable.	
4	The maintenance of a list of members.	
5	The facilities provided for the inspection of the list of members by officers and members.	
6	The admission of ordinary members.	
7	The admission of honorary or temporary members.	
8	The conditions under which members are entitled to benefit assured by the rules.	
9	The conditions under which fines or forfeitures can be Imposed or varied.	
10	The manner in which the rule shall be amended, varied or rescinded.	
11	The manner in which the members of the executive and the other officers of the union shall be appointed and removed.	
12	The safe custody of the funds.	
13	The annual audit of the accounts.	
14	The facilities for the inspection of the account books by officers and members.	
15	The manner in which the union may be dissolved.	

SCHEDULE III -STATEMENT OF LIABILITIES AND ASSETS ON THE..... DAY OF..... 19.....

(This need not be filled in if the Union came into existence less than one year before the date of application for registration.)

Liabilities	Rs. P.	Assets	Rs. P.
Amount of General Fund		Cash-----	
Amount of Political Fund		In hands of treasurer	
Loans..... from Other Liabilities (to be specified)		In hands of Secretary	
		In hands of -----	
		In the Bank	
		In the Bank	
		Securities as per list below	
		unpaid subscription due Loans to -----	
		Immovable property	
		Goods and Furniture	
		Other assets (to be specified)	
Total Liabilities		Total Assets	

LIST OF SECURITIES

Particulars	Nominal	Market Value	In hands of
1			
2			
3			
4			
5			
6			
7			

FORM B

REGISTER OF TRADE UNIONS

[illegible]

FORM C**CERTIFICATE OF REGISTRATION OF TRADE UNION****No.....**

It is hereby certified that thehas been registered under the Indian Trade Unions Act, 1926, thisday of.....19.....

Seal

Registrar of Central Trade Unions

FORM D

**ANNUAL RETURN PRESCRIBED UNDER SECTION 28 OF THE INDIAN TRADE UNIONS ACT,
1926, FOR THE YEAR ENDING ON 31ST MARCH, 19.....**

Name of Union,
Registered Head Office,
Number of certificate of registration.

Return to be made by federations of Trade Union

This Return need not be made by federations of
trade Unions

Number of unions affiliated at the beginning of
year.

Number of unions joining during the year.

Number of unions disaffiliated at the end
of year.

Number of members on books at the beginning of
year.

Number of members admitted during the year
(add) together.

Number of members who left during the year
(deduct).

Total number of members on books at the end of
the year.

Males

Females

Number of members contributing to political fund.

A copy of the rules of the Trade Unions, corrected up to the date of despatch of this return, is
appended.

Dated the.....

Secretary

Statement of liabilities and assets on the day of 19.....

Liabilities	Rs. P.	Assets	Rs. P.
Amount of General Fund		Cash-----	
Amount of Political Fund		In hands of treasurer	
Loans..... from Other Liabilities (to be specified)		In hands of Secretary	
		In hands of -----	
		In the Bank	
		In the Bank	
		Securities as per list below	
		unpaid subscription due Loans to -----	
		Immovable property	
		Goods and Furniture	
		Other assets (to be specified)	
Total Liabilities		Total Assets	

List of Securities

Particular	Nominal Value	Market Value at date on which accounts have been made up	In hands of
-------------------	----------------------	---	--------------------

General Fund Account

Income	Rs. P.	Expenditure	Rs. P.
Balance at beginning of year		Salaries, allowances and expenses of officers.....	
Contributions from members as per members		Salaries, allowances and expenses of establishment.....	
Donations		Auditor's fee	
Sale of periodical rules. Etc.		Legal expenses	
Interest on investments.		Expenses in conducting trade disputes.....	
Income from Miscellaneous sources (to be specified)		Compensation paid to members for loss arising out of traded disputes.....	
		Funeral, old age, sickness. unemployment benefits. Etc.....	
		Educational. social and religious benefits.....	
		Cost of publishing periodical.....	
		Rents, Rates and Taxes.....	
		Stationary, Printing and Postage.....	
		Expenses incurred under section 15(j) of the Indian Trade Unions Act, 1926 (to be specified).....	
		Other Expenses (to be specified).....	
		Balance at the end of year.....	

POLITICAL FUND ACCOUNT

Income	Rs. P.	Expenditure	Rs. P.
Balance at beginning of year		Payments made on objects specified in section 16(2)	
Contributions from members as per members		of the Indian Trade Unions Act, 1926 (to be specified).....	
		Expenses of Management (to be specified).....	
		Balance at the end of year.....	
Total		Total	

Treasurer**Auditor's Declaration**

The undersigned, having had access to all the books and accounts to the Trade Union and having examined the foregoing Statements and verified the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto.

Auditor.

The following changes of officers have been made during the year-----

Officers Relinquishing Office

Name	Office	Date of Relinquishing

Officers Appointed

Name	Age	Office	Address	Occupation	Date of Appointment

Secretary