THE TRADE UNION ACT 1926

Origin and Growth

The growth of the trade unionism in India can be traced back to 1980 when the Bombay mill hands association was formed for the redressal of grievance of the Bombay mill workers. However this association could not be treated as trade union the strict sense. After the First World War there were number of strikes by industrial and factory workers due to economic discontent. On many occasions these strikes were successful in getting the demands of the workers fulfilled. The established of international labor organization has also influenced the growth of trade union moment in our country.

In the year 1920 the madras high court in a suite field by Binny & co ltd against the textile labor union granted an injection restraining the union officials from inducing the workers to break their contracts of employment by not returning to their work with the result the leaders of the trade activities hence the necessity for legislative protection was felt by trade unions.

In 1921 NM Joshi who was the generals secretary of all India trade union congress successfully moved a resolution in the central legislative assembly seeking introduction of some legislation by the Govt. for protection of trade unions this move strongly opposed by the employers because of stiff opposing from the employers. That the passing of the Indian trade union act was possible only in 1926. The act came into force only from 1st June 1927.

Amendments to the Act

In 1947 the act was amended for providing compulsory recognition of the trade unions by the employers any dispute regarding recognition was to be decided by the labor court set up under the act However these provisions relating to compulsory recognition have not been put into operation and remained a dead letter so far. By the amendment act of 1964 the word ‘Indian’ has been deleted from the act and called as trade unions act 1926.

Object and scope of the Act

‘Trade unions are essencial for safeguarding the right of labour when there is a struggle between the labour and the management and the interest of the two are in conflict the trade union are required to sort it out The primary object of the trade union is securing improvements on matters like basic pay dearness allowance, bonus, gratuity, leave and holidays to its members’

The preamble of the trade union act says it is an act to provide for the registration of trade union and in certain respects of define the law relating to registered trade unions The act lays down a detailed procedure for the registration and working of the trade unions. In order that the union may fight for its legislatimate rights fearlessly, certain immunities from original and civil actions are granted to the members of a registered trade union and their officials thus provisions have been made to ensure a healthy union movement in India.
Definitions

Appropriate Government – in relation to a trade union whose objects are not confined to one state the appropriate Govt. is the Central Govt. in relations to all other union the state Govt. is the appropriate Govt.

Executive – means the body to which the management of the affairs of a trade union is entrusted.

Other office bearer – includes any member of the executive of the trade union. But an auditor is not deemed to be office bearer of the trade union.

Registrar – Registrar of trade union appointed by the appropriate govt under sec3 he also includes an additional or deputy registrar of trade union and in relation to any trade union the registrar for that state in which the head or registered office of the trade union is situated.

Trade Dispute

Trade dispute means any dispute like- between employer and workmen – between workmen and workmen – between employer and employer Any such dispute must be connected with the employment or non employment or the terms of employment or the conditions of labour of any person. The definision of trade dispute in this act is almost identical with the definition of industrial disputes.

Registration of Trade Union

Appointment of Registrars

State govt appoints a person to the registrar of the trade union for the state it may also appoints as many additional and deputy registrars of the trade union for the state The state govt also defines the local limits within which they shall exercise and discharge the powers and functions so specified if any such additional or deputy registrar is appointed and exercises and discharges the powers and functions if a registrar in an area he stall be deemed to be registrar for the purposes of this act.

Mode of Registration

Any seven or more members of a trade union may be subscribing theirs names apply for registrations of trade union after the date of application but before the application if more than half of the members who applied for registration cease to be members or disassociate themselves from the application by giving a notice in writing to the registrar in such a case the applications shall be deemed to have become invalid whereas only half or less than half of the members cease to the members of the union or disassociate themselves from the application the application for registration shall be valid.
Placation for the Registration

Application should be sent to registrar with in seven days
-the names, occupation and the address of the members making the application
-the name of the trade union and the address of its head office
- the titles, names, ages, addresses and occupations of the office bearers of the trade union.

Rules of Trade Union

The trade union and its members provide guidelines for the administration of the trade union

A Trade union is entitled to registration
1 If its executive is constituted in accordance with the provisions of the act and
2 its rules provide the following matters
- the name of the Trade Union
- the whole of its objects
-the purpose for which the general funds of the trade union shall be applicable
- the maintenance of a list of members and adequate facilities for the inspection there of
by the office bearers and members of the trade union.
- the person to be admitted must be an employee in the industry with which the trade union is connected The rule shall also provide for admission of the number of honorary or temporary office bearers to form the executive of the trade union.
-Payment of the subscription it shall be less than 25 paise per month per member
-conditions under which any members shall be entitled to any benefit assured by the rules and under which any fine may be imposed on the members
- the manner in which the members of the executive and other bearer of the trade union shall be appointed and removed.
- safe custody of funds annual audit of accounts, adequate facilities for the inspection of account books by the office bearer and members of the trade union and
- the manner in which the trade union may be dissolved

Registration

The registration on being satisfied that the trade union has complied with all the requirements of this act shall Trade Union by making necessary entries in the register. On registration a trade union the registrar shall issue a certificate of registration in the prescribed form.

All communications and notices of any charge in the address of the head office shall be given with fourteen days of such changes to the registrar.

Cancellation of registration

The registrar may withdraw or cancel the certificate or registration on the following
-if the certificate has been obtained by fraud/mistake
-if the Trade Union has ceased to exist
-The Trade Union has willfully contravened any provisions of the act
The trade union has allowed any rule to continue in force which is inconsistent with any provisions of the act.
- Trade Union has rescinded any rule which ought to be there
- Trade Union has on its own applied for withdrawal of cancellation

Before the withdrawal the registrar shall give at least two months notice in written specifying the ground on which it is proposed to take action in the absence of previous notice any proceeding for cancellation or withdrawal of registration is illegal.

**Appeal**

If the registration of a trade union is refused or if a certificate of registration is withdrawn or cancelled any person aggrieved or the trade union may appeal to the court not inferior to the court of principal district judge in the civil court of original jurisdiction as the appropriate govt may appoint in this behalf for that area.

**Rights and Liabilities of Registered Trade Unions**

- 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 civil and political interests of its members
- It became a body corporate
- Member of a registered trade union shall not be liable to punishment under sec120B of the Indian penal code in respect of any agreement made between the members for the purpose of furthering any such object of the trade union
- Officials bearers of a registered trade unions civil proceedings normally a person is liable in start for bringing about disruption of employment between the employer and the employee any member is protected from civil litigation even if they induced a worker to break off the contract of employment or for interfering with the trade business as a result no suit or the other legal proceeding is contemplation or furtherance of a trade dispute.
- Enforceability of agreements under the Indian contract an agreement in restraint of trade is void as against public policy but under the trade union act any agreement between the members of a registered trade union shall not be void or voidable merely because any of the object of the agreement one in restraint of trade.
- Right to inspect of books of trade union an office bearer or member of the trade union at such time as provided in the rules may inspect the account books of a registered trade union and the list of members, the object of conferring this right on office bearers and members is that they satisfy themselves as to the genuineness of members and of the accounts of the union.

**Membership**

Any person who has attained the age of 15 years may be a member of the registered trade union and enjoy all rights of a member however he cannot become an office bearer till he completes the age of 18 years or if he has been convicted and sentenced to imprisonment by a court in India for an offence involving moral turpitude unless a period of 5 years has elapsed since his release from jail. emphasises that not less than one-half of the total number of office
bearers of every registered union shall be persons actually engaged or employed with which the trade union is connected

**Change of name**

A Trade Union may change its name with the consent of not less than two-third of the total number of its members by giving a notice in written signed by the secretary and by the seven members of the trade union. The change in name does not affect rights or obligations of the trade union or render defective and legal proceedings by or against the trade union.

**Objects on which general funds may be sent**

- The payment of salaries allowances and expenses to office bearers of the trade union
- The payment of expenses for the administration of the trade union include audit of the accounts of the general funds of the trade union
- The prosecution of defence of any legal proceeding to which the trade union or any member thereof is party
- The conduct of the trade disputes on behalf of the trade union or any member thereof
- The compensation payable to members for loss arising out of trade disputes
- Allowances to members of their dependents on account of death old age sickness accident or unemployment
- The issue of or the undertaking of liability under policies of assurance on the lives of members

The provision of educational social or religious benefits for members or for the dependents of members

- The upkeep of a periodical published mainly for the purpose of discussing questions affecting employees or workmen as such
- The payment of contributions to any cause intended to benefits workmen in general provided such contributions in any financial year shall not exceed one fourth of the total income and
- Subject to any conditions contained in the notifications any other object notified by the appropriate govt in the official gazette.

**Amalgamation of Trade Union**

- Two or more trade unions may be amalgamated to form one trade union with or without dissolution or division of funds of the trade union in support of amalgamation one half of the members of each or every trade union entitled to vote shall be recorded. Out of that at least 60% of the recorded votes must support the proposal for amalgamation notice of amalgamation signed by the secretary and by seven members of each of the union shall be sent to the registrar if the registrar is satisfied that all necessary formalities have been complied with he may register the trade union and the amalgamation shall have effect from the date of such registration an amalgamation of two or more registered trade unions shall
not prejudice any right of any such trade union or any right of a creditor or any of them.

**Dissolution of Trade Union**

A trade union shall be dissolved by a notice of dissolution signed by seven members and the secretary of the union within 14 days of such dissolution. It shall be sent to the registrar of trade unions who shall register the same. Dissolution will take effect only from the date of such registration. In the absence of any rules providing for distribution of funds of the trade union, the registrar shall distribute the funds amongst the members of the union.

**Collective Bargaining**

A collective bargaining is an agreement made by two groups of persons. Collective bargaining is therefore a method by which a group agreement is reached between two groups of persons. Through an individual is free to bargain for himself and safeguard his own interest, he stands in a weaker position before his employer or master. The individual has to accept the offer without any reserves for the has to feed his family. However, the position becomes different if a bargain is made by a body or associate of workmen. In the words of Sydney web collective bargaining is a method of fixing the terms of employment by means of bargaining between the employees and employers.

**Essential features**

1. Collective bargaining is carried out by a group of people
2. The group that are involved in collective bargaining are workers and employers
3. In the bargaining process, workers' agreements normally take one or the other forms. Namely, negotiation, mediation, and arbitration, which may be voluntary or compulsory. Mainly, collective bargaining has two phases: the negotiation phase and the phase of conclusion of agreement.

**Negotiation**

Negotiation is the process of setting the difference by face to face between the representatives of the employees and employers. Generally, it involves three stages: (a) preparation for negotiation, (b) negotiation technique, (c) follow up. The implementation of these types of agreements are also not a problem because both the parties feel confident of their ability to reach the agreement. When the process of negotiation is complete and agreement is signed by both parties more conclusion of an agreement is not sufficient for collective bargaining. The enforcement of the agreement is important. The trade union while making a collective bargaining must also be borne in mind that the interest of the workers who are not the members of the trade union are also protected and the workers are not discriminated against.
Settlement

In case of failure of the negotiation machinery to resolve the difference by mutual discussion and understanding a third party intervention to secure settlement of labor disputes by way of meditation is often resolved to it is tripartite in nature because usually it is reached by conciliation. The reconciliation officer plays an important role in bringing about conciliation of the parties. The mediator functions not as a judge but assists the parties in dispute to reach an agreement by persuading them to resume or continue their bargaining efforts then the parties are to finalise the terms of the agreement and should report back to the conciliation officer within a specified time.

Arbitration

Arbitration is an act of setting labour disputes through the medium of a third party. The parties to a dispute may either agree amongst themselves to submit for settlement by a third person and abide by his award. It is called voluntary arbitration. When a dispute is submitted to an arbitrator under the provisions of a statute it would be compulsory arbitration. In case of voluntary arbitration the selection of arbitrator entirely rests with the parties to the dispute.

Collective Bargaining

Collective bargaining being a system based on bipartite agreement is superior to any agreement involving third party intervention in matters essentially concern employers and workers.

Collective Bargaining Merits

1) Being a method of solving disputes between the parties is more democratic in form and application this is the only method which provides settlement without the compulsion from outside forces.
2) Collective bargaining develops the spirit of self confidence and self reliance in the mind of employees.
3) In this method there is a give and take policy which will develop good will and understanding between labour and management it helps to create a peaceful atmosphere in the industrial relations.
4) Another advantage is speedy solution to the dispute the parties can do it at their own time and discretion compared to the delay in compulsory adjudication the time lag in solving the dispute through collective bargaining is comparatively less.
5) It produces more harmonious relations between employers and workers.
The Trade unions and the employers while making a collective bargaining must be careful that the agreement arrived at should be in conformity not only with the provisions of general law touching upon the subject of dispute but in conformity with the provisions of the industrial law while making an agreement with the employer it has to be borne in mind that the interest of the workers are not discriminated against. The international labour organization also in a conference held in 1951 recognized the principle of collective bargaining and adopted a resolution recommending collective agreements.