

# The Trade Unions Act, 1926

February 26, 2013

## Chapter I Preliminary

### Preamble

An act to provide for the registration of Trade Unions and in certain respects to define the law relating to registered Trade Unions.

### 1. Short title, extent and commencement.—

(1) This Act may be called the <sup>1</sup>[\*\*\*] Trade Unions Act, 1926.

<sup>2</sup>[(2) It extends to the whole of India <sup>3</sup>[\*\*\*].]

(3) It shall come into force on such date<sup>4</sup> as the Central Government may, by notification in the Official Gazette, appoint.

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**1. The word "Indian" omitted by Act 38 of 1964, sec. 3 (w.e.f. 1-4-1965).**

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

**3. 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. (w.e.f. 1-9-1971).**

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

### 2. Definitions.—

In this Act <sup>1</sup>["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;

State Amendment

**Gujarat.**—In section 2, after clause (a), insert the following clause, namely:—

"(aa) Industrial Court" means the Industrial Court constituted under the Bombay Industrial Relations Act, 1946, as in force in the State of Gujarat."



[Vide Gujarat Act 7 of 1962, sec. 3 (w.e.f. 1-7-1962).]

**Madhya Pradesh.**—In section 2, renumber clause (a) as clause (a2) and before clause (a2) as so renumbered, insert the following clauses, namely:—

“(a) ‘approved list’ means the list of approved unions maintained by the Registrar under section 28A;

(a1) ‘approved union’ means a registered Trade Union on the approved list.”

[Vide Madhya Pradesh Act 28 of 1960, sec. 2 (w.e.f. 31-12-1960).]

(b)<sup>2</sup>[“office-bearer”], in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor;

#### State Amendment

**Madhya Pradesh.**—In section 2, renumber clause (b) as clause (b2) and before clause (b2) as so renumbered, insert the following clauses, namely:—

“(b) ‘Industrial Court’ shall have the meaning assigned to it in the Madhya Pradesh Industrial Relations Act, 1960;

†[\*\*\*]

[Vide Madhya Pradesh Act 28 of 1960, sec. 2 (w.e.f. 31-12-1960)]; † clause (b1) omitted by Madhya Pradesh Act 26 of 1981, sec. 3 (w.e.f. 23-5-1981).]

(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;

<sup>3</sup>[(f) “Registrar” means—

(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

### Civil servants as workmen

A vital consideration would be the content or significance of the word 'workmen' as occurring in section 2(h) and that this would primarily signify only manual labourers or workers of that class. Thus, the civil servants of the Association could not be considered as workmen at all; *Non-Gazetted Government Officers' Union v. Registrar of Trade Unions*, AIR 1962 Mad 234.

### Object

Primary purpose of a trade union is collective bargaining; *Bank of India Employees' Association v. Reserve Bank of India*, (1983) 2 LLN 872 (Bom).

### Who can form Trade Union

Only the persons engaged in trade or business can form trade unions; *Rangaswami v. Registrar of Trade Unions*, AIR 1962 Mad 231.

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**1. Ins. by the A.O. 1937.**

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

**3. Subs. by Act 42 of 1960, sec. 3, for clause (f) (w.e.f. 21-9-1960).**

## Chapter II Registration of Trade Unions

### 3. Appointment of Registrars.—

<sup>1</sup>[(1)] <sup>2</sup>[The appropriate Government] shall appoint a person to be the Registrar of Trade Unions for <sup>3</sup>[each State].

<sup>4</sup>[(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.

(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

### Powers of Registrar

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.

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**1. Section 3 re-numbered as sub-section (1) thereof by Act 42 of 1960, sec. 4 (w.e.f. 21-9-1960).**

**2. Subs. by the A. O. 1937, for "Each Local Government".**

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

**4. Ins. by Act 42 of 1960, sec. 4 (w.e.f. 21-9-1960).**



## 4. Mode of registration.—

<sup>1</sup>[(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:

<sup>2</sup>[Provided that no Trade Union of workmen shall be registered unless at least ten per cent. or one hundred of the workmen, whichever is less, engaged or employed in the establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration:

Provided further that no Trade Union of workmen shall be registered unless it has on the date of making application not less than seven persons as its members, who are workmen engaged or employed in the establishment or industry with which it is connected.]

<sup>3</sup>[(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 applications.]

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**1. Section 4 re-numbered as sub-section (1) thereof by Act 42 of 1960, sec. 5 (w.e.f. 21-9-1960).**

**2. Ins. by Act 31 of 2001, sec. 2 (w.e.f. 9-1-2002).**

**3. Ins. by Act 42 of 1960, sec. 5 (w.e.f. 21-9-1960).**

## 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;

<sup>1</sup>[(aa) in the case of a Trade Union of workmen, the names, occupations and addresses of the place of work of the members of the Trade Union making the 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 <sup>2</sup>[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.

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**1. Ins. by Act 31 of 2001, sec. 3 (w.e.f. 9-1-2002).**

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

## 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;

(d) the maintenance of a list of the members of the Trade Union and adequate facilities for the inspection thereof by the <sup>1</sup>[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 <sup>1</sup>[office-bearers] required under section 22 to form the executive of the Trade Union;



<sup>2</sup>[(ee) the payment of a minimum subscription by members of the Trade Union which shall not be less than—

(i) one rupee per annum for rural workers;

(ii) three rupees per annum for workers in other unorganised sectors; and

(iii) twelve rupees per annum for workers in any other case;]

(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 <sup>1</sup>[office-bearers] of the Trade Union shall be <sup>3</sup>[elected] and removed;

<sup>4</sup>[(hh) the duration of period being not more than three years, for which the members of the executive and other office-bearers of the Trade Union shall be elected;]

(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 <sup>1</sup>[office-bearers] and members of the Trade Union; and

(j) the manner in which the Trade Union may be dissolved.

### State Amendment

**Gujarat.**—In section 6, after clause (f), insert the following clause, namely:—

“(ff) the termination of membership of the Trade Union of persons whose subscription is in arrears for a period exceeding six months or for such lesser period as may be provided in the rules;”

[Vide Gujarat Act 7 of 1962, sec. 3 (w.e.f. 1-7-1962).]

**Madhya Pradesh.**—In section 6, for clause (ee), substitute the following clause, namely:—

“(ee) the payment of subscription by members of the Trade Union which shall not be less than twenty-five naye paise per month per member:

Provided that the minimum rate of subscription in the case of members of a Trade Union of agricultural workers shall be five paise per month per member.”

[Vide Madhya Pradesh Act 16 of 1968, sec. 2.]

### COMMENTS

#### Provisions to be contained in rules of a trade union

There is no provision in the Act on the Constitution of the trade union providing for automatic cessation of membership on cessation of employment. Section 6(e) only provides that the rules of a trade union have, inter alia, to provide for the admission of those who are actually engaged or employed in industry as ordinary members so as to entitle a trade union to seek registration under the Act. Section 6(e) does not provide that on cessation of employment an employee



would cease to be a member; Bokajan Cement Corpn. Employees' Union v. Cement Corpn. of India Ltd., AIR 2004 SC 245: (2004) 104 FJR 15 (SC).

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

**2. Clause (ee) ins. by Act 42 of 1960, sec. 6 (w.e.f. 21-9-1960) and subs. by Act 31 of 2001, sec. 4 (w.e.f. 9-1-2002).**

**3. Subs. by Act 31 of 2001, sec. 4 for "appointed" (w.e.f. 9-1-2002).**

**4. Ins. by Act 31 of 2001, sec. 4 (w.e.f. 9-1-2002).**

## 7. Power to call for further particulars and to require alteration 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

#### Duty of Registrar

The duties of the Registrar were to examine the application and to look at the objects for which the Union was formed. If those objects were objects set out in the Act, and if those objects did not go outside the objects prescribed in the Act and if all the requirements of the Act and the regulations made thereunder had been complied with, it was his duty, to register the Union; Inland Steam Navigation Workers Union (in re:), 1936 IC 378.

#### Powers of Registrar

No provision of law provides for holding of election under the supervision of Registrar, Trade Unions. Therefore, the petitioner is right in submitting that there is no legal authority for issuance of impugned orders under which the internal disputes were referred for adjudication by the independent Board and upon its recommendations, election is directed to be held under the supervision of Registrar of Trade Unions; Tata Workers Union v. State of Jharkhand, 2002 LLR 806 (Jhar HC).

**Question of fact or law**

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).

**Scope**

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, there 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.

**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****Object**

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.

The certificate of registration continues to hold good until it is cancelled; *IFFCO, Phulpur Karmachari Sangh v. Registrar of Trade Unions*, (1992) II LLJ 239 (All).

**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;

<sup>1</sup>[(c) if the Registrar is satisfied that a registered Trade Union of workmen ceases to have the requisite number of members:]

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.

**State Amendment**

**Gujarat.**—After section 10, insert the following section, namely:—





"10A. Liability of existing registered Trade Unions to make certain provisions in their Rules.—(1) The rules of every Trade Union which was registered under this Act before the date of commencement of the Indian Trade Unions (Gujarat Amendment) Act, 1961, and the certificate of registration of which is in force on that date shall provide for the matter specified in clause (ff) of section 6.

(2) If no provision as required by sub-section (1) is made in the rules of any existing Trade Union before the expiry of six months from the date mentioned in sub-section (1), the Registrar may cancel the registration of such Trade Union:

Provided that not less than two months' notice in writing specifying the grounds on which it is proposed to cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is cancelled."

[Vide Gujarat Act 7 of 1962, sec. 5 (w.e.f. 1-4-1965).]

## COMMENTS

Cancellation of registration of a trade union

Before taking action under section 10 of the Trade Unions Act for cancellation of a trade union, the aggrieved person must be served not less than two months' previous notice in writing and also state the grounds of cancellation/withdrawal of the certificate of registration to the trade unions and as such when no opportunity by way of notice prior to the order of cancellation is given, the order not communicated but sent on the request of the appellant for cancellation cannot be sustained; Tamil Nadu Government Press Workers Sangam v. First Trade Union Addl. Registrar (Dy. Commissioner of Labour), 2004 LLR 9 (Mad): 2003 (99) FLR 734.

## Opportunity to be given

Cancellation of Registration without giving second show-cause notice and without giving opportunity to represent the case is liable to set aside; Coromandel Cement Factory Employees' Union v. Deputy Registrar of Trade Unions and Deputy Commissioner of Labour, Kurnool, 2001 LLR 170 (AP).

The proviso to section 10(b) states that, not less than two months prior 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; E.C.I.L. Employees' Union v. Deputy Registrar of Trade Unions and Deputy Commissioner of Labour, Hyderabad, 2001 LLR 760 (AP)

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**1. Ins. by Act 31 of 2001, sec. 6 (w.e.f. 9-1-2002).**

## 11. Appeal.—

<sup>1</sup>[**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 <sup>2</sup>[\*\*\*] to the High Court, or

<sup>3</sup>[(aa) where the head office is situated in an area, falling within the jurisdiction of a Labour Court or an Industrial Tribunal, to that Court or Tribunal, as the case may be;]

(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 <sup>4</sup>[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.

(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.]

#### State Amendment

**Gujarat.**—After section 11, insert the following section, namely:—

“11A. Appeal to Industrial Court in certain cases.—(1) Notwithstanding anything contained in sub-section (1) of section 11 in the case of a Trade Union in relation to which the State Government is the appropriate Government, any person aggrieved by any refusal of the Registrar to register such Trade Union or by withdrawal or cancellation of a certificate of registration may within such period as may be prescribed, appeal to the Industrial Court. The decision of the Industrial Court in such appeal shall be final.

(2) In respect of an appeal under sub-section (1), the Industrial Court shall have the same power and follow the same procedure as an appellate Court has and follows under sub-sections (2) and (3) of section 11.”

[Vide Gujarat Act 7 of 1962, sec. 6 (w.e.f. 1-7-1962).]

**Madhya Pradesh.**—For section 11, substitute the following section, namely:—

“11. Appeal.—(1) Any person aggrieved by an order of the Registrar—

(a) refusing to register a Trade Union; or

(b) withdrawing or cancelling a certificate of registration, may within thirty days from the communication of such order to the Trade Union concerned, appeal to the Industrial Court whose decision shall be final:

Provided that in computing the period of thirty days, the time requisite for obtaining a copy of the order shall be excluded.



(2) The Registrar shall comply with any order passed by the Industrial Court under sub-section (1)."

[Vide Madhya Pradesh Act 28 of 1960, sec. 3 (w.e.f. 31-12-1960).]

## COMMENTS

Withdrawal or cancellation of registration

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).

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

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

**3. Ins. by Act 31 of 2001, sec. 7 (w.e.f. 9-1-2002).**

**4. Subs. by the A.O. 1937, for "Local Government".**

## 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

### Object

The claim for supply of circulars cannot be denied by the corporation on the ground of minority trade union; *Road Transport Corporations Workers' Union v. A.P.S.R.T. Corporation*, 2001 LLR 82 (AP).

## 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);

<sup>1</sup>[(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.

### State Amendment

**Gujarat.**—After Chapter II, insert the following Chapter, namely:—

“Chapter IIA

Disputes relating to office in, or Membership of the Executive of, a Trade Union “14A. Reference of certain disputes to Industrial Court.—(1) If there is any dispute as to who is the lawful officer of a Trade Union or a member of the executive thereof, any person who has been a member of the Trade Union for not less than six months immediately before the date on which the dispute arose, may, with the consent of Registrar and in such manner as may be prescribed, refer the dispute to the Industrial Court for a decision.

(2) On a reference being made under sub-section (1) the Industrial Court shall after hearing the parties to such dispute, decide the dispute. The Court may in its discretion require the holding of fresh elections under its supervision to decide the dispute. The decision of the Industrial Court shall be final and shall not be called in question in any Court of law.

(3) Pending the disposal of the reference, the Industrial Court may make an interim order specifying the persons who shall be deemed to be the lawful officers of the Trade Union or the members of the executive thereof, as the case may be, until the decision of the dispute.

(4) No civil Court shall entertain any civil suit or other proceeding in relation to disputes mentioned in this section.”

[Vide Gujarat Act 7 of 1962, sec. 7 (w.e.f. 1-7-1962).]

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**1. Subs. by Act 42 of 1960, sec. 7, for clause (e) (w.e.f. 21-9-1960). Earlier clauses (c) and (d) were repealed by Act 25 of 1942, sec. 2 and Sch. 1.**

## 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:—

- (a) the payment of salaries, allowances and expenses to <sup>1</sup>[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 employs;



- (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.

#### State Amendment

**Maharashtra.**—In Chapter III, in the Heading, after the words, 'Trade Unions', insert the words "and Settlement of Certain Disputes".

[Vide Maharashtra Act 3 of 1968, sec. 2 (w.e.f. 10-10-1968).]

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**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 "Governor-General in Council".**

## 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 <sup>1</sup>[\*\*\*] <sup>2</sup>[the Constitution] or of any local authority, before, during, or after the election in connection with his candidature or election; or



(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 <sup>1</sup>[\*\*\*] <sup>2</sup>[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 <sup>1</sup>[\*\*\*] <sup>2</sup>[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.

<sup>3</sup>[(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.

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**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 (w.e.f. 21-9-1960).**

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

**3. Ins. by Act 51 of 1970, sec. 2 and Sch. (w.e.f. 1-9-1971).**

## 17. Criminal conspiracy in trade disputes.—

No <sup>1</sup>[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.

### COMMENTS

Criminal conspiracy under agreement

Trade Unions have the right to declare strikes and to do certain acts in furtherance of trade disputes. They are not liable civilly for such acts or criminally for conspiracy in the furtherance of such acts as Trade Unions Act permits, but there is nothing in the Act which apart from immunity from criminal conspiracy allows immunity from any criminal offences. Indeed any agreement to commit an offence would under section 17, Trade Unions Act, make them liable for criminal conspiracy; R.S. Ruikar v. Emperor, AIR 1935 Nag 149.

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



## 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 <sup>1</sup>[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 Union.

### COMMENTS

Availability of immunity to a trade union leader

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).

Object

Immunity is provided to the registered trade union from being sued by way of civil suit under section 18. 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; *Standard Chartered Bank v. Hinudstan Engg. & General Mazdoor Union*, 2002 LLR 254 (Del).

Scope

It is manifest in the present case that the striking workmen are not prevented from taking recourse to the protection of section 18 of the Trade Unions Act mainly because the strike was illegal under section 24(1) of the Industrial Disputes Act; *Rohtas Industries Staff Union v. State of Bihar*, AIR 1963 Pat 1970.

The Act has not provided that period of illegal strike would be treated as period of unauthorised absence or relationship of "employer and employee" would cease; *U.P. Rajya Setu Nigam Sanyukt Karmachari Sangh v. U.P. State Bridge Corporation*, Lucknow, 2000 LLR 151 (All).

It is not within the purview of the civil court to prevent or interfere with the legitimate rights of the workmen to pursue their demands by means of strike or otherwise as also acts done in furtherance of a trade dispute; *Ahmedabad Textile Research Association v. ATRA Employees' Union*, 1995 LLR 91 (Guj) DB.

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**1. Subs. by Act 38 of 1964, sec. 2, for**

## 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

### Object

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.

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

## 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:

<sup>1</sup>[\*\*\*]

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

[21A. Disqualifications of office-bearers of Trade Unions.—

<sup>1</sup>[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;

(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.]

<sup>2</sup>[(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.]

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**1. Ins. by Act 38 of 1964, sec. 5 (w.e.f. 1-4-1965).**

**2. Ins. by Act 51 of 1970, sec. 2 and Sch. (w.e.f. 1-9-1971).**

## 22. Proportion of office-bearers to be connected with the industry.—

<sup>1</sup>[22. Proportion of office-bearers to be connected with the industry.—(1) Not less than one-half of the total number of the office-bearers of every registered Trade Union in an unrecognised sector shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Provided that the 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.

Explanation.—For the purposes of this section, “unorganised sector” means any sector which the appropriate Government may, by notification in the Official Gazette, specify.

(2) Save as otherwise provided in sub-section (1), all office-bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

Explanation.—For the purposes of this sub-section, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union.

(3) No member of the Council of Ministers or a person holding an office of profit (not being an engagement or employment in an establishment or industry with which the Trade Union is connected), in the Union or a State, shall be a member of the executive or other office-bearer of a registered Trade Union.]

### COMMENTS

#### Object and scope

The returning officer is not a statutory authority but an ordinary person in matter of election of office bearers; O.P. Gupta v. Union of India, 2001 LLR 125 (Raj).

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**1. Subs. by Act 31 of 2001, sec. 8, for section 22 (w.e.f. 9-1-2002).**

## 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

#### Merger of Trade Union

On merger 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.

(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 <sup>1</sup>[December] next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of <sup>1</sup>[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 <sup>2</sup>[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.

(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.

<sup>3</sup>[(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.]

### State Amendments

**Madhya Pradesh.**—After Chapter III, insert the following new Chapter, namely:—

#### “Chapter IIIA **Approved Unions**

28A. Maintenance of list of approved unions.—It shall be the duty of the Registrar to maintain in such form as may be prescribed a list of approved unions.

28B. Certain unions deemed to be approved unions.—A union entered on the approved list maintained under the Bombay Industrial Relations Act, 1947 as adopted in Madhya Bharat by the Madhya Bharat Industrial Relations (Adaptation) Act, Samvat 2006 (Madhya Bharat 31 of 1949), before the commencement of the Indian Trade Unions (Madhya Pradesh Amendment) Act, 1960 (Madhya Pradesh Act 28 of 1960), shall be deemed to be an approved union under this Act.



28C. Application for and entry in the approved list.—(1) Any representative union or where there is no representative union any registered Trade Union in any industry other than an industry for which the Central Government is the appropriate Government within the meaning of sub-clause (i) of clause (a) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), may apply in the prescribed form for being entered in the approved list.

(2) On receipt of such application the Registrar shall hold such enquiry as is prescribed and if he is satisfied that such union fulfils the conditions necessary for its being entered in the approved list, he shall enter the name of such union in the approved list and shall issue a certificate of its entry in such form as may be prescribed:

Provided that—

(i) where two or more unions fulfilling the conditions necessary for registration specified in section 28D apply for their entry in the approved list, the Union which has the largest membership of the employees employed in the industry, shall alone be entered in the approved list;

(ii) the Registrar shall not enter any union in the approved list, if he is satisfied for reasons to be recorded in writing that the application for entry is not made bona fide in the interests of employees but is made in the interests of the employer.

Explanation.—For the purposes of this section, the expression "Representative Union" shall have the meaning assigned to it in the Madhya Pradesh Industrial Relations Act, 1960 (Madhya Pradesh Act 27 of 1960).

28D. Conditions of entry in the approved list.—(1) No union shall be entered in the approved list under this Act, unless—

(i) the union has for the whole of the period of three months next preceding the date of application under section 28C a membership of not less than fifteen per cent. of the employees employed in the industry in that local area;

(ii) the constitution of the union shall be such as may be provided by or under this Act, and in particular, shall require that—

(a) the subscription payable for membership shall be not less than four annas a month or such other sum as may be fixed by the State Government under sub-section (2) and that the accounts of the union shall be audited at least once in each financial year by an auditor appointed or approved by the State Government.

(b) the executive of the union shall meet at least once in three months and that all resolutions passed by the executive or general body shall be recorded in a minute book; and

(c) the union shall not sanction a strike as long as conciliation and arbitration are available and shall not declare a strike until a ballot is taken and the majority of the members of the union vote in favour of the strike.

(2) The State Government may, by notification, direct that in the case of any registered trade union of workmen or employees engaged in any employment specified in the Schedule to the Minimum Wages Act, 1948, the membership subscription may be less than four annas for such period as may be specified therein.

(3) Any registered Trade Union complying with the conditions specified in sub-section (1), and having a larger membership in an industry in a local area than an approved union for such



industry shall on an application in that behalf be entered in the approved list in place of such approved union by the Registrar after holding such enquiry as he deems fit.

28E. Approved union to continue to be so far altered local area for sometime.—Notwithstanding anything contained in section 28D, if there is any alteration in the local area or areas—

(a) an approved union in an industry in the altered local area or areas; or

(b) where two or more approved unions exist in an industry in the altered local area or areas, the union having the largest membership, whether by agreement of the other approved unions or as determined by the Registrar after such inquiry as he deems fit;

shall be deemed to be the approved union for the altered local area or areas, as the case may be, for a period of six months from the date on which such alteration is effected or where such approved union or any other union in the altered local area or areas makes an application under section 28C within such period until the disposal of such application by the Registrar.

28F. Removal from approved list.—The Registrar shall remove a union from the approved list if its certificate of registration is cancelled under section 10, and may also so remove a union if after holding such enquiry, as he deems fit, he is satisfied that it—

(i) was entered in the list under mistake, misrepresentation or fraud; or

(ii) has, since being included in the approved list, ceased to fulfil the conditions specified in section 28D.

28G. Appeal.—(1) Any person aggrieved by the order of the Registrar—

(a) refusing to enter any registered trade union in the approved list; or

(b) removing a registered trade union from the approved list; may, within thirty days from the communication of such order to the trade union concerned, appeal to the Industrial Court whose decision shall be final:

Provided that in computing the period of thirty days the period requisite for obtaining a copy of the order shall be excluded.

(2) The Registrar shall comply with any order passed by the Industrial Court under sub-section (1).

28H. Rights of officer of approved unions.—Such officers and members of an approved union as may be authorized by or under rules made in this behalf by the State Government, shall in such manner and subject to such conditions as may be prescribed, have a right—

(a) to collect sums payable by members to the union on the premises where wages are paid to them;

(b) to put up or cause to be put up a notice board on the premises of the undertaking in which its members are employed and affix or caused to be affixed notices thereon;

(c) for the purpose of the prevention or settlement of a trade dispute—

(i) to hold discussions on the premises of the undertaking with the employees concerned who are the members of the union;



(ii) to meet and discuss with an employer or any person appointed by him for the purpose of removing the grievances of its members employed in his undertaking;

(iii) to inspect, if necessary, in any undertaking, any place where any member of the union is employed.

[Vide Madhya Pradesh Act 28 of 1960, sec. 4 (w.e.f. 31-12-1960); Madhya Pradesh Act 16 of 1968, sec. 3.]

## “28HH. Definitions.— In this Chapter,—

(a) “industry” shall have the meaning assigned to that expression in the Madhya Pradesh Industrial Relations Act, 1960 (27 of 1960).

(b) “local area” means any area, notified by the Registrar as a local area for any or all Industries for the purpose of this Chapter.”

[Vide Madhya Pradesh Act 26 of 1981, sec. 4 (w.e.f. 23-5-1981).]

**Madhya Pradesh.**—In Chapter IV, for the heading “Regulations” substitute the heading “Miscellaneous” and before section 29 insert the following sections, namely:—

## “Chapter IV

### Miscellaneous

“28-I. Other powers of Registrar.—(1) For the purposes of discharging his duties generally under the Act and verifying the correctness of the annual returns submitted under section 28, the Registrar shall have power to inspect the account books, the list of members and the minute book of a registered Trade Union:

Provided that an inspection made under this sub-section shall, as far as practicable, be done at the office of the registered Trade Union or at the place within a reasonable distance therefrom and after giving reasonable notice.

(2) For the purposes of discharging his duties under Chapter IIIA, the Registrar shall, in addition to the powers mentioned in sub-section (1) have—

(a) the following powers of a Court of civil jurisdiction under the Code of Civil Procedure, 1908, namely:—

(i) power to require or accept the proof of facts by affidavits;

(ii) power to summon and enforce the attendance of any person and to examine him on oath;

(iii) power to compel the production of documents; and

(iv) power to issue commission for the examination of witnesses;

(b) power to enter and inspect any place used by a registered Trade Union as office after giving reasonable notice; and

(c) such other powers as may be prescribed.



28J. Dispute as to officer of registered Trade Union.—(1) If there is any dispute as to who is the lawful officer of a registered Trade Union, any person claiming to be such an officer or the Registrar may refer the dispute to the Industrial Court in such manner \*[and on payment of such fee not exceeding ten rupees] as may be prescribed:

\*[Provided that no fee shall be payable by the Registrar.]

(2) On a reference being made under sub-section (1), the Industrial Court shall, after hearing the parties to such dispute and recording such evidence as it may consider necessary, decide the dispute and declare who is the lawful officer. The decision of the Industrial Court shall be final and shall not be called in question in any court of law.

\*[(2a) The costs of and incidental to the provisions of this section shall be in the discretion of the Industrial Court and the Industrial Court shall have full power to determine by whom the whole or any part of such costs shall be paid.

(2b) If any proceeding under this section the Industrial Court is, after hearing the person making the reference, satisfied that the ground on which the claim has been preferred is false or vexatious, the Court may after recording its reasons for holding such claim to be false or vexatious, make an order for the payment of costs by way of compensation which shall not be less than fifty rupees and not exceeding two hundred rupees to such person or persons, as it may specify in the order.]

(3) No Civil Court shall entertain any suit or other proceedings in respect of any dispute which has been referred to the Industrial Court under sub-section (1) and is pending before such Court and if any such suit or proceeding is pending in a Civil Court on the date of the reference the Civil Court shall, on receipt of a notice from the Industrial Court, cease to exercise jurisdiction in respect thereof and shall forthwith transfer the record of such suit or proceeding to the Industrial Court."

[Vide Madhya Pradesh Act 28 of 1960, sec. 5 (w.e.f. 31-12-1960); \*Madhya Pradesh Act 11 of 1963, sec. 2.]

28K. Certain officers to be public servants.—The Registrar, Additional Registrar and Deputy Registrar of Trade Unions appointed under section 3 and members of the staff of the offices of the aforesaid officers shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

28L. Protection of action under the Act.—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act.

[Vide Madhya Pradesh Act 16 of 1968, sec. 4.]

**Maharashtra.**—After section 28, insert the following section, namely:—

28-1A. Power of Industrial Court to decide certain disputes.—(1) Where there is a dispute as respects whether or not any person is an office-bearer or a member of a registered Trade Union (including any dispute relating to wrongful expulsion of any such office-bearer or member), or where there is any dispute relating to the property (including the account books) of any registered Trade Union, any member of such registered Trade Union for a period of not less than six months may, with the consent of the Registrar, and in such manner as may be prescribed, refer the dispute to the Industrial Court constituted under the Bombay Industrial Relations Act, 1946, for decision.



(2) The Industrial Court shall, after hearing the parties to the dispute, decide the dispute; and may require an office-bearer or member of the Registered Trade Union to be appointed whether by election or otherwise under the supervision of such person as the Industrial Court may appoint in this behalf or removed, in accordance with the rules of the Trade Union:

Provided that the Industrial Court may, pending the decision of the dispute, make an interim order specifying or appointing any person or appointing a Committee of Administration for any purpose under the Act including the purpose of taking possession or control of the property in dispute and managing it for the purposes of the Union pending the decision.

(3) The decision of the Industrial Court shall be final and binding on the parties and shall not be called in question in any Civil Court.

(4) No Civil Court shall entertain any suit or other proceedings in relation to the dispute referred to the Industrial Court as aforesaid, and if any suit or proceeding is pending in any such Court, the Civil Court shall, on receipt of an intimation from the Industrial Court that it is seized of the question, cease to exercise jurisdiction in respect thereof.

(5) Save as aforesaid, the Industrial Court may, in deciding disputes under this section, exercise the same powers and follow the same procedure as it exercises or follows for the purpose of deciding industrial disputes under the Bombay Industrial Relations Act, 1946."

[Vide Maharashtra Act 3 of 1968, sec. 3 (w.e.f. 1-10-1968).]

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**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. Ins. by Act 42 of 1960, sec. 9 (w.e.f. 21-9-1960).**



## Chapter IV Regulations

### 29. Power to make regulations.—

(1) <sup>1</sup>[\*\*\*] The <sup>2</sup>[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.

<sup>3</sup>[(3) Every notification made by the Central Government under sub-section (1) of section 22, and every regulation made by it under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or regulation, or both Houses agree that the notification or regulation should not be made, the notification or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification or regulation.]

(4) Every notification made by the State Government under sub-section (1) of section 22 and every regulation made by it under sub-section (1) shall be laid, as soon as may be after it is made, before the State Legislature.]

#### State Amendments

**Madhya Pradesh.**—(i) In Chapter IV for the heading “Regulations” substitute the heading “Miscellaneous”.

(ii) In section 29, in sub-section (2), after clause (d), insert the following clauses, namely:—

“(d1) the form in which the approved list shall be maintained under section 28A;

(d2) the form of application under section 28C;

(d3) the officers and members of approved unions to be authorized under section 28H and the manner in which and the conditions subject to which the rights of such officers under that section shall be exercised;

(d4) the manner of enquiry required to be undertaken by the Registrar under this Act;

(d5) the manner in which the dispute shall be referred to Industrial Court \*[and the fee payable therefor] under section 28J.”

[Vide Madhya Pradesh Act 28 of 1960, sec. 6 (w.e.f. 31-12-1960; \*Madhya Pradesh Act 11 of 1963, sec. 3).]

**Maharashtra.**—In section 29, in sub-section (2),—

(i) in clause (d), omit the word ‘and’

(ii) after clause (d), insert thereafter the following clause, namely:—

“(dd) The manner in which the dispute may be referred to the Industrial Court under section 28-1A.”

[Vide Maharashtra Act 3 of 1968, sec. 4 (w.e.f. 1-10-1968).]

#### COMMENTS

Jurisdiction of Sub-registrar



On the facts and circumstance of the present case as the term of the office of both the rival claimants claiming to have been elected either on 26-2-2000 or 27-2-2000 has already expired on the date of decision rendered by respondent No. 1 on 12-9-2001. As a matter of fact on the date of decision after expiry of the term of the office of both the rival claimants for the year 2000 respondent No. 1 has no jurisdiction to decide the validity of the election of two rival claimants who claiming to have been elected either on 26-2-2000 or 27-2-2000 specially when respondent No. 1 himself is admitting that fresh election for the year 2001 has taken place and an information has been received by him; Hotel The Land Mark Employees' Union v. Sub-Registrar, Trade Unions, Kanpur, 2002 LLR 692 (All).

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**1. The words "Subject to the control of the Governor-General in Council" omitted by the A.O. 1937.**

**2. Subs. by the A.O. 1937, for "Local Government".**

**3. Ins. by Act 31 of 2001, sec. 9 (w.e.f. 9-1-2002).**

### 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 Penalties 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 required by or under any provision of this Act, every <sup>1</sup>[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 <sup>1</sup>[office-bearer] 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

Imposition of fine in case of delay in filing an amendment

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.

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

## 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.

### State Amendment

**Madhya Pradesh.**—After section 32, insert the following section, namely:—

"32A. Penalty for contravention of section 28H.—Any employer who contravenes the provisions of section 28H shall be punishable with fine which may extend to five hundred rupees."

[Vide Madhya Pradesh Act 28 of 1960, sec. 7 (w.e.f. 31-12-1960).]



## 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.

### State Amendments

**Gujarat.**—Same as in Maharashtra.

[Vide Gujarat Act 11 of 1960, sec. 87.]

**Maharashtra.**—In its application to the Pre-Reorganisation State of Bombay, in section 33, in sub-section (2), insert the following words, namely:—

"and in the case of an offence under sub-section (2) of section 31, within six months next after the alleged offence came to the knowledge of the Registrar."

[Vide Bombay Act 32 of 1956, sec. 2 (w.e.f. 7-6-1956).]


