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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **REGISTRATION OF TRADE UNION**

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## **INTRODUCTION:**

The labor organizations appeared in the form of modern trade unions. Subsequently, as their number increased, membership expanded, and they became active in seeking to promote and safeguard the interests of workers, they had to face the open hostilities of the employers and the public authorities. In the year 1921, the local governments are requested to ascertain the view of public bodies and private persons on certain connected issues such as the principles of proposal legislation, recognition of strikes, protection of trade unions from civil and criminal liabilities, management of unions and others.

After receiving the views of the local government, the government of India drew up a bill in 1925. The Trade Union Act was passed in 1926 put enforce from 1<sup>st</sup> June 1927. This Act provides for the Registration of Trade Union with a view to render law relating to registered trade unions and provided certain privileges and protection to the registered trade unions.

## **WHAT IS THE TRADE UNION?**

Under the Trade Union Act, 1926, 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 condition on the conduct of any trade or business. It includes a federation of two or more trade unions. [Section 2(h)]. Thus, technically, there can be 'union' of employers also, though, almost universally, the term 'trade union' is associated with of workmen or employees.

The Objective of a trade union are;

- a) Improved wages
- b) Improved terms & conditions

- c) Full employment
- d) Industrial democracy
- e) Voice in government

### **REGISTRATION OF TRADE UNION:**

Appropriator Government shall appoint a person as Registrar of Trade Union for each State, [Section 3(1)]. Application for registration is required to be signed by at least 7 members. Application should be accompanied by rules of trade union and other required details. [Section 5]. Rules should contain provision as prescribed in section 6. The registrar shall register with the Trade Union and enter particulars in the register maintained by him, [section 8]. The Trade Union will have a registered office, [Section 12]. Any seven or more members of the union can form a trade union and apply to the Registrar for its registration by subscribing their names to its rules. 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.

Provided that no Trade Union of workmen shall be registered unless at least ten percent or hundreds of the workmen, whichever is less, engaged or employed in the establishment or industry with which it is connected are the member of such Trade Union on the date of making of application for registration. Provided further no Trade Union of workmen shall be registered unless it has on the date of making application not less than 7 persons as its members, who are workmen engaged or employed in the establishment or industry with which it is connected.

### **APPOINTMENT OF REGISTRARS:**

According to Section 3 of the Act, the appropriate Government shall appoint a person to be the Registrar of Trade Union for each State, and the appropriate government shall also appoint as many additional registrars as it may deem fit to carry out purposes of the Act.

Appropriate Government defined in section 2 of the Act. Registrar defined in section 2(f) of the Act. The Trade Union is defined in section 2(h) of the Act. Additional Registrar refers to section 2(f) of the Act. Deputy Registrar refers to section 2(f) of the Act.

### **FUNCTION OF THE REGISTRAR:**



The functions of the registrar may be classified as under:

- i) Registration of the union;
- ii) Withdrawal or cancellation of the registration;
- iii) Maintenance of records and returns;
- iv) Sanction for prosecutions;
- v) Supervision of election.

In re *Inland Stram navigation Workers' Union*,<sup>1</sup> it was held the duties of the Registrar were to examine the application and to look at the objects for which the union was formed. If these objects set out in the Act and if these objects did not go outside the objects prescribed in the Act and if the requirement of the Act, and the regulations made thereunder had been complied with, it was his duty to register the union. The Registrar was not at the stage entitled to go into the question whether the union was another trade union which had been prescribed and which was seeking the registration under a different name. The Registrar, when he relied on the Bengal Government, ought to have brought it to the notice of the union before he acted on it and given it the opportunity to say anything that he had to say regarding it. Appeals from the order of the Registrar of trade unions refusing to register the Union should be directed to be taken by a Single Judge sitting alone so that, if should be necessary, evidence can be taken.

In *Northeastern Railway Employees' Union v. III rd. Additional District Judge*,<sup>2</sup> the Supreme Court observed that the Registrar of Trade Union is the authority charged with the duty of administering the provisions of the Act. The Supreme Court further observed that the High Court was obviously in error in designating the General Manager, Eastern Railway, as the authority to hold elections of the Northeastern Railway Employees' Union. The supreme Court, therefore, directed the elections to be held under the supervision of the Registrar of Trade Union or by an officer designated by him.

Registration is a necessity. The law does not make registration of the union's compulsory. In fact, it is the union already formed which can be registered trade union has certain advantages.

#### **REGISTRATION – ITS ADVANTAGES:**

- On registration a trade union acquires the status of a body corporate by the name under which it is registered.
- The union shall have a perpetual succession and a common seal.
- The union can acquire and hold property.

- The union can enter into contracts.
- The union can sue and be sued.

### **MODE OF REGISTRATION:**

According to section 4 of the Act, any seven or more members of a Trade Union in accordance with the provisions of the Act may make an application to apply for registration with the trade union. There are two conditions subsequent to the same, firstly no trade union of workmen shall be registered unless at least 10% or 100% of the workmen, whichever is less engaged in the employment of the establishment are its member on the date of making of its application and secondly no trade union shall be registered unless on the date of making of application, minimum seven of its member who are workmen are employed in the establishment or industry.

Also, such application shall not to be deemed to be invalid merely on the ground that at any time after of the application, but before the registration of the trade union some of the members but not exceeding half of the total number of persons who made the application has ceased to be member.

The Trade Union is defined in section 2(h) of the Act. Rules refer to section 6 of the Act. Registration of union refers to section 5,6,7 and 8 of the Act.

### **ULAWFUL PURPOSE AND REGISTRATION OF UNION:**

The English law on the subject gives a right to seven or, more member of a trade union to register a trade union under the Act. The section specifically states that if any of the purposes of such trade union are unlawful, such registration shall be void. It follows that as soon any of the purposes of the union become unlawful, the registration shall become void. What is an unlawful purpose would be a point of law and fact to be decided in each case.

Once the union is registered, and if the same is not withdrawn or cancelled under section 10 of the Act, legal consequences will follow regarding the rights and liabilities.

### **APPLICATION FOR REGISTRATION:**

According to section 5 of the Act, every application for the registration of the trade union shall be made to the Registration and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particulars namely-

1. The names, occupations and addresses of the number making the application;

2. The name of the trade union and the address of its head office, and
3. The titles, names, ages, addresses and occupation of the office-bearers of the trade union.

Where a trade union has been in existence for more than a copy of the assets and liabilities shall also be submitted along with the application for registration.

### **Section 2(h) and 5: Employees of Power and Water Wings of Devasthanam: Entitled to registration**

Employees working in power and water wings of Devasthanam, irrespective of the said wing being an industry or not, held, entitled to get a union registered.<sup>3</sup>

#### **PROVISIONS TO BE CONTAINED IN THE RULE OF A TRADE UNION:**

According to section 6 of the Act, a trade union shall not be entitled to registration under the Act unless the executive committee has been established in accordance with the provision of the act and the rule provide for the following -

1. The name of the trade union;
2. The whole of the objects for which the trade union has been established;
3. The whole of the purposes for which the general funds of the trade union shall be applicable;
4. The maintenance of a list of the members of trade union
5. The admission of ordinary members who shall be persons engaged or employed in an industry with which the trade union is connected;
6. 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;
7. The way the rules shall be amended, varied or rescinded;
8. The way the which the members of the executive and the other office bearers of the trade union shall be elected and removed;
9. 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 office bearers and member of the trade union, and;

10. The manner in which the trade union may be dissolved.

**MEMBERSHIP LINKED WITH RIGHT TO WORK:**

Where the right to work is linked to the membership of the union, the question of admission to the membership of the union assumes importance and is of great significance.

In *Edwards v. S.O.G.A.T.*<sup>4</sup>, a workman lost his job as his union dues were not deposited. The fault was not his as the employer had failed to deduct the union dues. It was held that the union rules were *ultra vires* and invalid as being an unwarranted encroachment on a man's right to work. Subsequent refusal to admit the workman to membership by the union was held to be arbitrary, capricious and unlawful.

In *Farums v. Film Artist, Association*<sup>5</sup>, it was held that rules prescribing qualification for entry into a union cannot be invalidated on the grounds of unreasonableness or being contrary to natural justice. A person who suffers from some disqualifications from the very inception even if admitted by mistake be deemed to have been never validly elected.

Lee, the plaintiff was charged with unfair competition under the rules of union. He was fined and, on his failure, to pay the fine he was expelled. The Court held that the interpretation of the rule which constitutes a contract can be construed only by the court. In this particular case the court held that the plaintiff was not guilty of unfair competition.<sup>6</sup>

**POWER TO CALL FOR FURTHER PARTICULARS AND TO REQUIRE ALTERATION OF NAME:**

According to section 7 of the Act, the registrar may call for further information for the purpose of satisfying himself whether all the particular are in accordance with section 5 and 6 of the Act.

In case the trade union applying for registration bears a name identical to that of an existing trade union and the registrar feels that the name so resembles that of the other that are fair chances of the persons being misled then the registrar shall ask the trade union applying to change the name and shall refuse to register the same until such alternation has been made.

**REGISTRAR: EXERCISE OF POWER: SCOPE**

The function of the Registrar of Trade Union is prescribed under the Act, and he must see if the provisions of Section 6 are complied with while presenting an application for registration of Trade

Union. He was not entitled to go into the question if the Union could be described as an unlawful association.<sup>7</sup>

The power of Registrar to call for further information for satisfying himself about compliance of section or matter connected with it is limited to the provision of section 7 of the Act and Section 5 and Section 6 would show that he could not be supplied information from any other source except the Union. He cannot call for further information from the Deputy Commissioner.<sup>8</sup>

### **REGISTRATION:**

According to section 8 of the Act, if the registrar thinks the trade union has complied with all the provisions of the Act, it shall registrar the Trade Union by entering in a register all the particulars in accordance with the provisions of the Act.

In *Kesoram Rayon Workmen's Union v. Registrar of Trade Unions*<sup>9</sup>, it was held that the workmen of an industrial establishment can form many unions as they like. There is nothing in the Act that bars the formation of a rival Union or requires a Union applying for registration to give notice to all existing Unions. When a Union seeks registration, all that it has to do is to ensure that the provisions of the Act, Rules and Regulations made there under relating to registration of Trade Union have been complied with.

In *A.C.C Rajanka Limestone Quarries v. Mazdoor Union*<sup>10</sup>, In fact, section 8 imposes the statutory duty upon registrar to register trade union on being satisfied that it has complied with all his duty within a reasonable time may attract the interference of the court under article 226 of the constitution commanding the registrar of trade unions to perform the statutory duty imposed upon him under sections 7 and 8 of the act with the required promptitude.

In *Hindustan Copper Mazdoor Sangh v. Chief Labor Commissioner (1968)*, it was held that the right of the workers to form trade unions is a fundamental right and any trade union satisfying the requirements of the Trade unions act, 1926 is entitled to registration.

### **CERTIFICATION OF REGISTRATION:**

According to section 9 of the Act, the registrar shall issue a certificate of registration to the trade union after registration under section 8 which shall of conclusive proof that a trade union has been duly registered.

### **CERTIFICATE OF REGISTRATION: TO WHAT EXTENT CONCLUSIVE**

Section 9 does not take away the right of the High Court under Article 226 of the Constitution of India to set aside a certificate of registration. The finality of the registration certificate is only for the purposes of the Act and does not affect the Constitutional power of the High Court.<sup>11</sup>

### **REGISTRATION: NOT CONCLUSIVE PROOF OF REAL EXISTENCE OF THE UNION**

Registration of a union is not conclusive proof of its real existence. It may raise a presumption to this effect. The real existence of a union has to be decided on evidence.<sup>12</sup>

### **CANCELLATION OF REGISTRATION:**

According to section 10 of the Act, a certification of a trade union may be cancelled or withdrawn or an application of the trade union to be verified in such manner as may be prescribed; where the registrar is satisfied that the certificate has been obtained by fraud or mistake or the trade union has ceased to exist or has willfully and otherwise contravened any provisions of the Act and if the registrar is satisfied that a registered trade union ceases to have requisite number of members.

In *Hindustan Copper Mazdoor sangh v. Chief Labour Commissioner, (1986)*, it was held that on a plain reading of section 10(b) Trade Union Act, it must be held that a prior notice, apart from the one for the proposal action for cancellation or withdrawal of certificate of registration as contemplated under the proviso to section 10 has to be given by the Registrar in a case where there is any allegation of or contravention of any provisions of this, Act by the Trade Union, in absence of such a prior notice, any proceeding for cancellation or withdrawal of registration is illegal and without jurisdiction.

The withdrawal or cancellation of the registration must be preceded by the requisite notice as well as an opportunity to show cause against the proposed action.<sup>13</sup>

### **APPEAL:**

According to section 11 of the Act, any person aggrieved by any refusal to register a trade union or withdrawal of registration, etc. by registrar may file an appeal where the trade union head office is situated within the limits of a presidency town to the High Court, or 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; 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 principle Civil Court of original jurisdiction as the appropriate government may appoint.

On an application to the appropriate forum, the court may dismiss the appeal or pass an order directing the registrar to take appropriate measures.

The court shall have the same power as a civil court under the Civil Procedure Code, 1908 and may follow the same procedures.

The highest appeal can be made to the High Court.

Section 11 provides for an appeal only against an order of refusal of the Registrar to register a trade union. It does not provide a remedy against an order of the Registrar refusing to cancel the registration of a union.<sup>14</sup>

### **REGISTERED OFFICE:**

According to section 12 of the Act, all communications shall be made in the registered office of the trade union.

There can be only one registered office of the union.

Non-compliance with the provisions of the Act is penal and is punishable under section 31 of the Act. Communication and notice sent to the address on record with the Registrar shall be taken as served if the change is not communication to the Registrar.

### **INCORPORATION OF REGISTERED TRADE UNIONS:**

According to section 13 of the Act, every registered trade union shall be a corporate body having a common seal and perpetual succession with power to acquire and hold movable and immovable property and shall by the said name sue and be sued. No civil suit or other legal proceeding can be initiated against a registered trade union in respect of any act drawn up in furtherance of a trade dispute under certain conditions. No agreement between the members of a registered trade union should be void or voidable merely on the grounds that any of its objects is in restraint of trade.

In *East Indian Coal Co. Ltd. V. Workers' Union*, rejecting the contention that a registered trade union could not institute a suit in forma pauperis, a Division Bench of the Patna High Court held that there was nothing in the context or subject-matter of Order 33, Rule 1 of the CPC which necessarily

excluded the application of the provision to an incorporated body like a trade union and that there was no reason why the word “person” occurring in the Explanation to the said rule, should not have been interpreted in accordance with the definition contained in the General Clauses Act.

### **CONCLUSION:**

The presence of trade unions establishes a healthy relationship between the employer and workmen with a sense of responsibility towards each other. Trade Unions define and channelize the rights of the workers with pressure on the employer to not deceive them. The registration of the Trade Union ensures that a trade union is duly certified and recognized and thereby the provisions for same are laid down exhaustively in the Act.

### **REFERENCE:**

1. ATR 1936 Cal 57: 40 CWN97.
2. 1989 Lab IC 44:(1988) 1 LLN 906: 56FLR 735.
3. Tirumala Tirupati Devasthanam v. Commr. Of Labour, 1995 Supp (3) SCC 653: 1996 SCC (L&S) 97.
4. (1971) CH 354 CA.
5. 1964 AC 525 HL.
6. Lee v. Showmen’s Guild of Great Britain, (1952) 2 QB 329 CA.
7. Inland Steam Navigation Worker’s Union, In re, AIR 1938 Cal 57.
8. M. Kandalrao v. Registrar, Trade Union, 1952 Nag LJ 39.
9. (1968) 1 LLJ 335: AIR 1967 Cal 507: 1968 LabIC 1539.
10. (1958) 2LLJ 458: AIR 1958 Pat470(DB).
11. Tirumala Tirupati Devasthanam v. Commr. Of Labour, 9197901 LLJ 448 (Del)(DB)
12. Kandam Textile v. Industrial Tribunal, AIR 1951 Mad 616: 1949 LLJ 875 (DB).
13. Mysore Iron & Steel Workers Labour Assn. V. Commr. Of Labour, 1972 Lab IC 799(Mys).
14. Law Relating to Trade Unions and Unfair Labour Practices in India, BY K.D. Srivastava’s, Fourth Edition, Eastern Book Company.
15. <https://www.scribd.com/document/515305949/REGISTRATION-OF-TRADE-UNIONS>



16. <https://www.slideshare.net/sildeshow/registration-of-trade-unionpptx/260030291>



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