

Maharashtra Trade Unions and Prevention of Unfair Labour Practices, 1971.

Objects of the Act.

- (1) to provide for the recognition of the trade unions for facilitating collective bargaining for ~~certain~~ certain undertakings.
- (2) to state the rights and obligation of trade unions.
- (3) Three Schedules — VLPs on part of the Employer and ULPs on part of the Employees / unions.

Section Authorities — §.

- (1) Industrial Court. — Section 4 & 5
- (2) Labour Court. — Section 6 & 7.
- (3) Investigating Officer Section 8 & 9.

(8) What are the Authorities under MRTU & PULP?
Explain the duties. ②

Authorities

Section 4 - Industrial Court.

- (1) The Govt. of Maharashtra shall by a notification in the official Gazette constitute an Industrial Court.
- (2) The Industrial Court shall consist of 3 members — one of them shall be the President.
- (3) Every member of the Industrial Court shall be the person who is not connected to the matter with the complaint referred to that court or any industry directly affected by such complaint.
- (4) Eligibility — Every member of an Industrial Court shall be a Judge or has been a Judge of a High Court or he is eligible for being appointed as a Judge of a High Court.

However one member may be a person who is not so eligible but possess expert knowledge of labour and or industrial matters.

Section 5 - Duties of Industrial Court.

It shall be the duty of an industrial court —

- (i) To decide an application made by an

- union for grant of Recognition to that Union.
- (2) To decide an application made by a Union for grant of Recognition in place of a Union which has already been recognised under this Act.
 - (3) To decide an application of another Union or from an Employer for the withdrawal or cancellation of the Recognition of the Union.
 - (4) To decide complaints relating to Unfair Labour Practices falling in Item No. 1 of Schedule IV.
 - (5) To assign work and to give direction to the Investigating officer in matters of verification of Unions and investigation of complaints relating to Unfair Labour Practices.
 - (6) To decide references made to it at any point of law either by a Civil or Criminal Court.
 - (7) To decide Appeal under section 42.

Labour Court - Section 6.

The state Government shall by notification in the official gazette constitute a Labour Court (one or more) having jurisdiction in such local areas as specified in such notification.

Powers and Duties of Labour Court - Section 7.

(1) It shall be the duty of the Labour Court to decide complaints relating to Unfair Labour Practices describe in Item No. 1 of Schedule IV. and also try punishable under the Act.

Investigating Officer - Section 8.

The state Govt. by notification in the official gazette appoint such member of Investigating Officer for any area as may be necessary to assist the Labour Courts and Industrial Courts in discharge of their duties.

Section 9 → Duties of Investigating Officer.

(1) The Investigating Officer shall be under the control of the Industrial Court and shall exercise power and perform duties entrusted to him by the Industrial Court.

(2) It shall be the duty of the Investigating officer to assist the Industrial Court in the matter of verification of membership of unions and to assist the industrial and Labour Courts for investigating the complaints relating to unfair labour practices.

(3) It shall be the duty of the investigating officer to report to the industrial Court or to the Labour Court the existence of any unfair labour ~~act~~ practice in any industry and the names and address of the person indulging in unfair labour practices and also submit any other information to industrial and labour Court, as the investigating officer may consider necessary.

Section 11 → Application for Recognition of Union

(1) Section 11 provides that a union having membership of not less than 30% of the total number of employees in an undertaking for the whole period of six calendar months immediately preceding the calendar months in which application is submitted is entitled to apply for recognition.

(2) Every such application shall be disposed of by the Industrial Court within 3 months from the date of the receipt of the application where the undertaking to which recognition is applied is in the same local area and other cases within 4 months.

Section 12 — Procedure for Granting Recognition

~~(1)~~ Section 12 lays down the procedure to be followed by the Industrial Court for deciding an application for recognition. Following is the Procedure —

(1) If the Industrial Court is satisfied that the application is in ~~the~~ order, ^{it shall} ~~&~~ cause a notice to be displayed on the notice board of the undertaking declaring its intention to consider the application on the date specified in the notice and call upon the Applicant Union and the affected

employers and employees to show-
(2) Cause why recognition should not be granted to the Applicant Union.

(2) After, considering the objection if any and holding an inquiry if the Industrial Court is satisfied that

the Applicant union satisfies all the conditions as prescribed in Section 11 and it shall grant recognition to the said union and shall issue a Certificate of Recognition.

(3) The Industrial Court shall not grant recognition to any union, if it is satisfied that the application for recognition was not made bonafide in the interest of the employees, but it was made in the interest of the employers.

(4) The industrial court shall also refuse to recognise any union if at any time within 6 months immediately ~~pre~~ preceding the date of application for recognition, the union ~~instig~~ has instigated, aided or assisted the commencement or continuation of a strike which is deemed to be an illegal under the Act.

Section 13 → Cancellation of Recognition and Suspension of Right.

The Industrial court shall cancel the recognition of a union ~~if the~~ ~~court~~ after giving a show cause notice why recognition should ~~not~~ be cancelled and after holding an

inquiry, if the following
condition prevail —

(1) That the union was recognised under mistake, misrepresentation or fraud or.

(2) That the membership of a union has for a continuous period of six calendar months falling below the minimum membership required under Section 11 for recognition.

OR
(3) That the recognised union has after its recognition failed to observe any of the condition specified in Section 19.

OR
(4) That the recognised union is not being conducted bonafide in the interest of the employees but it is been conducted in the interest of the employer to the prejudice of the interest of the employees.

OR
(5) That it has instigated, aided or assisted the commencement or continuation of a strike which is deemed to be illegal under this Act.

OR
(6) That the registration of a union under the Trade Union Act, 1926 is cancelled.

OR

(7) That another union has been recognised in place of a union already recognised under this Act.

But, before cancellation the industrial court has to give notice to such union to show cause by its recognition should not be cancelled. The industrial court has to also hold an inquiry before such cancellation.

The industrial court may cancel the Recognition of a Union if, of the given show cause notice to such union and after holding an inquiry the court is satisfied that the Union has committed any practice which is an unfair Labour practice under the Act.

Section 14 -> Recognition of other Union

(1) Section 14 empowers the industrial court to grant Recognition to another union and issue a Certificate of such Recognition if the other Union has the Largest membership of employees employed in an undertaking and such other union has notified to the industrial court its intention for such undertaking.

(2) Moreover, ~~the~~ such other union should also satisfy the condition required for recognition under section 11 and should also comply with the condition specified under section 19 of the Act.

(3) Unless, ~~the~~ other union is able to enroll larger number of members, than the recognised union, it would not have the right to make an application for recognition.

(4) Further a period of 2 years should have been lapsed from the date of recognition granted to the union which is recognised.

(5) On receipt of an application under Section 14, the industrial court shall call upon the union which is already recognised by sending a show cause notice as to why the applicant union should not be recognised in its place.

(6) After scrutinising the application and after satisfaction, the industrial court shall cause notice to be displayed on the notice board of the undertaking declared its intention to consider the same application on the date specified therein.

(7) The Industrial Court shall issue show cause notice and call upon objection, if any, from the concerned parties, ~~if~~ ^{any} i.e. union or unions having membership of employees in that undertaking, employer and employees affected by that proposal.

(8) Further, the procedure is to be followed by Industrial Court as laid down under section 11 & 12 of the Act.

Section 15 → Application for Re-Recognition.

(1) Any union the recognition of which is cancelled on the ground that it was a recognised under a mistake or on the ground as specified under section 13, may at any time after 3 months from the date of cancellation may apply for re-recognition on the payment of prescribed fee.

Section 19 → Obligation of a Recognised Union :-

u. Sec. 19 of the Act, the rules of any union seeking recognition under the Act must provide for the following four matters -

(1) The membership subscription should not

+2 (12)
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be less than 50 paise per month.

- (2) The Executive Committee must meet at intervals of not more than 3 months.
- (3) All resolutions passed by the Executive Committee or the general body of the undertaking must be recorded in the minute book kept for this purpose.
- (4) An auditor appointed by the State Govt. must audit the accounts at least once in every financial year.

C.L:- Mumbai Mazdoor Sabha
VLS

Bennett Coleman & Co. Ltd.

[AIR 1986 SC 1621]

The SC held that there is sufficient compliance of the first condition as mentioned in the Act.

In other words, the subscription need not necessarily be on monthly basis, it can be an annual or semi-annual subscription also.

What are the Rights & obligation of Recognised Unions under the MRTU & PULP Act?

Section 20:- Rights of Recognised Union.

S. 20 of the Act confers on authorised officers, members of the office staff and members of recognised union, the following rights:

- (1) To collect sums payable by members to the Union on the premises, where wages are paid to mem.
- (2) To put up a notice board on the premises of the undertaking in which its members are employed and to affix notices thereon.
- (3) For the purpose of prevention or settlement of an industrial dispute —
 - (i) to hold discussion on the premises of the undertaking — but in a way that does not interfere the working of the undertaking.
 - (ii) to inspect any place in the undertaking where an employee is employed.

(4) To appear on behalf of ~~the~~ any employee or employees in any departmental inquiry held by the employer.

Furthermore if there is a recognised union for undertaking :-

(1) The union alone has the right to appoint its nominees to represent in the Works Committee under S. 3 of I.D. Act, 1947.

(2) A recognised union only can be allowed to appear or act or be allowed to be represented ~~under~~ in any proceedings under the I.D. Act, 1947.

C.O. :- Mazdoor Congress
v/s -

S.O.R. Shinde

[1983, MHLJ - 909].

The Bombay High Court has held that when there is a recognised union, only the union can enter into a settlement with the employer.

No other union or the employees independently can enter into such a settlement.

[For obligation Add. Section 19 of the Act].

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S. 21 :- Right to appear or act in proceedings relating to certain unfair Labour Practices.

As regards proceedings relating to unfair labour practices specified in Item 2 and 6 of Schedule IV, no employee of an undertaking to which the Industrial Dispute Act applies can appear or act or be allowed to be represented in such proceedings, except only through a recognised union.

If the union is not recognised, the employee may himself act or appear in such proceedings.

(Q) What are the Rights of an unrecognised union?

§ Section 22 :- Rights of an unrecognised union.

The unrecognised union have the following rights :-

(1) To meet and discuss with an employer (or any person appointed by him) the grievances of any individual member, relating to his discharge, removal, retrenchment, termination of service or suspension.

(2) To appear on behalf of any of its members employed in that undertaking, in any domestic or departmental inquiry held by the employer.

C.I. :- M.S.R.T.C.

v/s

Kishore Kondiram Jagade

[2005 (4) MLJ 798]

The Bombay High Court has held that an unrecognised union is entitled to represent casual workmen in the absence of a recognised union, so that a weak employee can effectively present his case against a mighty employer through a union.

Illegal Strikes and Lock-outs under MRTU & PULP.

(Section 24 & 25).

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Illegal strike means a strike which is commenced or continued —

(a) without giving to the employers notice of strike in the prescribe form or within 14 days of the giving of such notice.

(b) where there is a recognised union, without obtaining the vote of majority of the members of the union

(c) During the pendency of the conciliation proceeding under any Act and 7 days after the conclusion of the such proceedings.

(d) During the pendency of the Arbitration proceeding before an Arbitrator.

(e) In case where an industrial dispute is referred to the Adjudicating Authorities under I.D. Act and during the pendency of such proceedings.

§ 25 of Illegal Lock out means a lock-out which is commenced or continued —

(a) ~~also~~ without giving to the employees

(18)

a notice of lock-out in the prescribed form or within 14 days of giving such notice.

(2) During the pendency of conciliation proceeding and seven days after the conclusion of such proceedings.

(3) During the period when a submission in respect of any of the matters covered by the notice of lock-out is registered under S-66 of Bombay Industrial Relations Act.

(4) Where an industrial dispute matter covered by the notice of lock-out has been referred to the Arbitration of a Labour Court :- (voluntarily).

(a) during the arbitration proceedings.

(b) before the date on which the arbitration proceeding is completed.

(c) before the date on which the award of the arbitrator comes into operation.

(5) During the pendency of arbitration proceedings before an Arbitration and before the date on which the arbitration proceedings are concluded.

(6) Where an industrial dispute is referred to the arbitration of Labour Court or Industrial Court compulsorily.

- during the arbitration proceeding.
- before the date on which such proceeding is completed or
- before the date on which the award comes into operation.

(7) In cases where an industrial dispute has been referred for to the adjudicating authorities under ID Act and during the pendency of such proceedings.

(8) During any period in which settlement or award is in operation.
~~in respect~~

C.I. :- Dilip Trading Co.

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Vasant Balu Patil

[2002, 111 CLR 597]

The Bombay High Court has held that there can be a lock-out in cases where there is only one employee in that establishment. The reference to

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employees includes the singular and for a lock-out, it is not necessary that the number of employers has to be more than one.

Section 25 - Reference of Labour Court for Declaration whether strike or lock-out is illegal.

S. 25 provides that if the employees of any undertaking have proposed to go on a strike or have commenced a strike, the State Govt. or the employer of the undertaking may make a reference to the Labour Court for declaration that such a strike is illegal.

Any such declaration is to be made in open court and is to be recognised as binding and followed in all proceedings.

If however, a strike declared to be illegal under Section 25, is withdrawn within 48 hours of such declaration, such strike is not deemed to be illegal.

S. 25, if the employer of any undertaking has proposed a lock-out or has commenced a lock-out, the State

Court of the recognised union [and where there is no recognised union, any other union of the employees of that undertaking] may make a reference to the Labour Court for a declaration whether such lock-out is illegal.

Any such declaration is to be made in open court and is to be recognised as binding and is to be followed in all proceedings.

If however, a lock-out declared to be illegal under S. 25, is withdrawn within 48 hours of such declaration, such a lock-out is not deemed to be illegal under the Act.