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Power of Industrial Court to cancel the Recognition of Union under MRTU and PULP Act

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ABSTRACT

Maharashtra Recognition of trade unions and prevention of unfair labour laws practice act 1971 sanctioned by the government of India for regulation of industries in the country to attain the goal of empathetic between employee and employer. This act figure on the incidence of the strike, lockouts, illegally declared, economizing, terminating a workman. Under such circumstances, the Industrial act can be closely related and several other problems between employees and employers. In such unwanted issues of industry, the industrial act, MRTU, and PULP Act 1971 against ULP are provided. A few functions of a trade union are to ensure fair wages for workers, to work for collective bargaining, to improve working and living conditions, to enlarge opportunities for promotion and training, to provide education culture and recreational opportunities, to promote individual and collective welfare, etc.

Keywords: *Protect the rights, safe working place, mental peace, and physical safety.*

I. INTRODUCTION

The Maharashtra recognition of Introduction trade union and prevention of unfair labour practice act, 1971: The state of Maharashtra is the first state to enact special legislation for the prevention of victimization and other unfair labour practice. The seeds of the legislation were already there is the Bombay industrial relations act 1946, but the necessity of a full-fledged legislation on the subject was being felt all the time. Hence the enactment of the

II. MRTU & PULP ACT, 1971

The principal object of the act is to stop victimization and other unfair labour practice on the part of employers. The act is, however, intended to prevent unfair labour practice on the part of workman and trade union also.

The act was passed in 1972 but it was brought into force three years later in 1975.

Some provision for the prevention of the unfair labour practice were introduced in the trade

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union Act, 1926, long back by the amendment act of 1947 but these provisions have not been enforced.

The importance features of the MRTU and PULP act, 1971, is that like Bombay industrial relations act it provides to a person aggrieved by the commission of any unfair labour practice a quick and direct approach to a court of law.

(A) Meaning: the state of Maharashtra is the 1st state to enact special legislation for the prevention of victimization of worker and also at the same time to prevent unfair labour practice on the part of the employee, workers and trade union.

- 1) Maharashtra Recognition of trade unions and prevention of unfair labor laws practices act 1971 sanctioned by the government of India for regulations of industries in the country to attain the goal of empathetic between employee and employer.
- 2) This act figures on the incidence of the strike, lockout, illegally declared, economizing, terminating a workman. Under such circumstances, Industrial act can be closely related and several other problems between employee and employer.
- 3) In such unwanted issues of industry, the industrial act, MRTU and PULP Act 1971 against ULPs are provided.

(B) Objective of MRTU and PULP act 1971

- To offer rights of trade unions
- To abolish industrial disputes
- To prevention against certain ULPs
- To provide announcing of lock-outs and strikes
- To provide powers to unrecognized unions
- To provide a safeguard to unions
- To consensus recognition to trade unions
- To enforce this act

(C) Regulation to be made by industrial court

1. The industrial court may make regulation consistent with the provisions of the act and rules made thereunder regulations it's procedure.
2. In particular, and without prejudice to the generally of the foregoing power, such regulation may provide for the formation of benches consisting of one or more of its

members bench consistent of three or more members and the exercise by such bench of the jurisdiction and power vested in them.

- a. Every regulation made under this section shall be published in the official gazette.
- b. Every proceeding before the court shall be deemed to be a judicial proceeding within the meaning of section 192,193, and 228 of the Indian penal code, XLV of 1860.
- c. The court shall have power to direct by whom the whole or any part of the costs of any proceeding before it shall be paid.

Provides that no such cost shall be directed to be paid for the services of any legal adviser engaged by any party.

III. EXECUTION OF ORDER AS TO COSTS

An order made by the court regarding the costs of a proceedings may be produced before the court of the civil judge within the local limit of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business or where such place is within the local limit of the ordinary civil jurisdiction of the high court.

(A) Law declared by industrial court to be binding

The determination of any questions of law in any order, decision or declaration passed or made, by the full bench of the Industrial court constituted under the regulation made under section 33 shall be binding and shall be followed in all proceedings under this act.

(B) Authorised officer to appear in any proceedings before court

The State government may authorize, and direct any officer of government to appear in any proceedings before the court by giving notice to such court and on such notice being given , such officers shall be entitled to appear in such proceeding and to be heard by the court .

IV. WHAT IS LABOUR LAW?

Labour laws protect the rights of employees. The primary function of labor laws to deliver employee safe working place, mental peace, and physical safety.

Unfair labor laws consider when actions taken by employers disrupt National Labour Relations Act of 1935, section 8. NLRA investigate such acts to give employees to improve their surroundings with their employers by developing union. NLRA also establishes the rules for union elections, collective bargaining and more. They also prohibit employers to do interfere in

employee rights to create equilibrium between both union and employers. Such actions are known as unfair labor laws practices.

- **Industries covered by the act:** the act is applicable to every industry to which the Bombay Industrial Relation act 1946 applies for the time being and every Industry to which the Industrial Dispute Act 1947 applies for the time being and in respect for which the state Government is the appropriate government.
- **Person covered by the Act:** The act is applicable to every person who is an employee as define section 3 (13) of the Bombay Industrial Relation act 1946. And every person who is a workman as define in section 2 (5) of the Industrial Dispute Act 1947.
- **labour Unfair practice:** The various practice listed in schedule II, III, IV of the acts are called unfair labour practice. These practices are nothing but unfair act or unfair omissions on the part of employers, employee workman and trade union.

V. WHAT IS A RECOGNIZE UNION?

- A union which has a minimum membership of 30 % of the total number of employees employed in any undertaking and which has been issued a certificate of recognize is called a Recognized union.
- A union which is not Registered under the trade union Act can't seek recognized under the MRTU and PULP act.
- Also, if a Recognize union loses its registration under the trade union Act
- It would also lose its recognition under the MRTU and PULP.
- There shall be only one recognizes union, the union having the largest membership in respect of the same undertaking.
 - Requirements that a union must fulfill for seeking Recognition for MRTU and PULP act.
 - The membership subscription fee shall not be less than 50% paise per month.
 - The executive committee shall meet at Intervals not more than 3 months
 - All the resolution passed, decision taken whether by the executive committee or the general body of the union shall be recorded In minutes book specially kept for the purpose.
 - An auditor appointed by the state Government shall audit it's at least once in

each financial year.

VI. AUTHORITY UNDER THE MRTU AND PULP ACT

There are 3 authorities under the act

- Industrial court
- Labour court
- Investigating office

For deciding application for grant or withdrawal of recognition to union. For deciding complaint relating to unfair labour practice.

1. Industrial court: for deciding complaint relating to unfair labour practice MRTU and PULP.

- For trying offence under the act
- For deciding whether the strike lockout is legal or illegal.

2. Investigating officers:

- For verifying members of the union.
- For investing into complain relating to unfair labour practice.

3. When can the Industrial court cancel the recognition of the union

- i. It was recognized under mistake misrepresentation or fraud.
 - ii. Its membership has followed requirements for the recognition.
 - iii. It has failed to observe any of the condition for seeking Recognition.
 - iv. It is not being conducted bonafied it the interest of the employee but the interest of the employer to the prejudice of the Interest of the employee.
 - v. It has instigated assisted the commencement or continue often illegal strike
 - vi. It's registration under trade union Act is cancel.
 - vii. It has committed any unfair labour practices under the MRTU and PULP act.
- Even after the cancellation of the recognition of the union and its member will not be relieved from any penalty or liability incurred by then under the act prior to such cancellation.

VII. SPECIAL RIGHTS OF RECOGNITION UNION

When there is a recognised union for an undertaking, such union has a right.

- 1) To represent all employees in such undertaking.
- 2) To appear or act on behalf of any employee in such undertaking to the exclusive of all other agencies in any proceeding under the industrial dispute act, 1947 and make all employees in such undertaking bound by the decision or order made in such proceeding;
- 3) To make all employees in such undertaking bound by any agreement to which it is a party;
- 4) To discuss with an employer the grievance of the employee employed in his undertaking.
- 5) To inspect any place in any undertaking;
- 6) To appear on behalf of any employee in any domestic inquiry held by the employer.

VIII. IN WHICH CONDITION MRTU AND PULP ACT 1971 PASSED?

To resolve **industrial disputes** India took initiative for passing that law which fashions equilibrium between employee and employers to improve industrial growth. The government of Maharashtra made a strong report and led the following circumstances.

1. They believed strong development befall if autonomous and responsible unions in order and atmosphere free from coherent labour practices. There was no operative legalization to provide gratitude to unions apart from the industrial action, 1946 which was applied to a few companies.
2. Therefore, in 1968, the government of Maharashtra allotted a tripartite committee underneath the chairmanship of a president of the industrial court to describing the relationship of the employee with employers in industries, this takes as unfair labour practices. After that, the committee has submitted a report to the state.
3. The state their points and after a long struggle their hard work became successful and this generates major changes in industrial relations.
4. During this period, the committee noticed, the designated system has not been accepted legally, a Bombay industrial act. The Unfair labour practices have not been collected with bargaining's.
5. The committee has collected all the information which activities an employee should need in the industry. The task was difficult to prepare a list of unfair labour practices.
6. They have gathered information from Tribunals and courts, which clearly depicts the image of unfair labour. They covered a large set of information in one place and felt

workable metaphors of the expressions is essential.

7. The Government of Maharashtra also gave importance to produce sovereign machinery to form dual actions recognition and enforcing provisions of the union.
8. the state passed the **MRTU and PULP Act** 1 February 1971. This applies to all industries of Bombay for both employee and employer in 1972.

(A) Is MRTU and PULP act proved beneficial for business growth?

- 1) The main reason for introducing this act is to generate a balance between relations of unions and employers in the industry.
- 2) The industrial disputes are drawn-out, political and even administrative. After a great struggle, this law got the legal address.
- 3) Before the **MRTU and PULP Act** 1971, the industrial disputes were large and takes a long time to resolve.
- 4) This simply affects the growth of industries. But after this act, the cases become less and industrial disputes diminish, hence business growth elevated.
 - a. Trade Unionism has made its headway owing to growth of industrialization and capitalism. Trade Unionism asserts collectively the rights of the workers.
 - b. In industrially advanced countries trade unionism has made a great impact on the social, political and economic life. India, being an agricultural country, trade unionism is restricted to industrial areas and it is still in a stage of growth.

(B) Duties of industrial court: It shall be the duty of the industrial court,

- i. To decide an application by union for grant of recognition to it
- ii. To decide an application by a union for grant of recognition to it in place of a union of a which has already been recognized under this act.
- iii. To decide an application from another union or an employer for withdrawal or cancellations of the recognition of s union.
- iv. To decide complaint relating to unfair labour practice except unfair labour practice falling in item 1 schedule IV to decide reference made to it on any point of law either by any civil or criminal court.
- v. To decide appeals under section 42.

(C) Power of industrial and labour court: where a court decide that any person named in the complaint has engaged in or is engaging in, any unfair labour practice, it may in its order

Declared that an unfair labour practice has been engaged in or is being engaged in by that person, and specify any other person who has engaged in, or is engaging in the unfair labour practice.

For the purpose of hiding an enquiry or proceeding under this act the court shall have the same power as are vested in court in respect of:

- a. Proof of facts affidavit;
- b. Summoning and enforcing the attendance of any person, and examination him on oath,
- c. Compelling the production of documents; and
- d. Issuing commission for the examination of witnesses.

The court shall also have power to call upon any of the parties to proceeding before it to furnish in writing, and in such forms as it may think proper, any information, which is considered relevant for the purpose of my proceeding before it, and the party so called upon shall therefore furnish the information to the best of its knowledge and belief, and if so. Required by the court to do so, verify the same in such manner as may be prescribed.

IX. CONCLUSION

The growth of an economy depends on the growth of corporations, which in turn depends on its workers and employees. This is possible only in the presence of an environment that allows the workers to voice their grievances and opinions on matters that directly or indirectly concern their employment. Most often, power vests in favor of the employers, so balancing that with providing equal, if not more, powers to the workers is absolutely necessary. This is where the importance of trade unions comes in. Though political interference, a multiplicity of unions, lack of unity amongst unions, low membership, non-recognition or non-registration pose problems in the effective functioning of unions, largely they have been successful, especially in the unorganized sector. Moreover, with unions growing in the technology sector in states like Karnataka, Tamil Nadu, West Bengal, Kerala and Maharashtra, the trade union movement is certainly growing. With changes such as negotiating union and their recognition, streamlining of the process of grievance redressal in the newly introduced Industrial Relations Code, 2020, the significance and role of trade unions is sure to continue.

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