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Analysing developments impacting business

PROPOSED AMENDMENT ON RECOGNITION OF TRADE UNIONS - TRADE UNION (AMENDMENT) BILL, 2018

31 August 2018

Introduction

The Trade Unions Act, 1926 (Act) provides for the constitution and registration of trade unions in India. The Act defines a trade union as “any combinations, 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, and includes any federation or two or more trade unions (Section 2, Trade Union Act, 1926).”

Recognition of trade unions

Recognition is the process through which an employer agrees to negotiate with representatives of a trade union on various aspects including but not limited to working conditions, compensation, etc., on behalf of particular group of workers.

Though certain states in India have formulated rules around recognition of trade unions, the lack of provisions within the Act itself for such recognition often hindered trade unions from being recognized formally in States which did not have such Rules. What this implies is that an employer may choose to not recognize (and therefore not negotiate with) a trade union despite a majority of its workmen being part of such a trade union.

Currently, the recognition of trade unions is governed under the provisions of the ‘Code of Discipline’(Code) and the ‘Criteria for Recognition of Unions’ adopted by the Standing Labour Committee in 1957, which was subsequently ratified by the various representatives of employers at the Indian Labour Conference, held in 1958.

Proposed Amendment

The Ministry of Labour and Employment (Ministry) received various representations by trade unions that other ministries of the Government of India do not give due weightage to central trade unions in the absence of any statutory backing or recognition.

Thus, an amendment to the Act to incorporate the provision of recognition of trade unions at central and state level became necessary. Accordingly, the Ministry vide its notification published in official gazette dated 20 July 2018, proposed an amendment

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to the Act to incorporate new section 28A and sub-section (2A) after section 29 (2) of the Act for providing specific provisions for recognition of trade unions. The Ministry has invited comments on the draft Trade Unions (Amendment) Bill, 2018 by 10 August 2018, from the stakeholders to finalise the changes.

Comment

The proposed amendment is a significant step in giving stronger statutory recognition to trade unions and granting them more teeth when negotiating for the rights of workmen with both employers as well as the Central and State governments. While detailed rules around the manner in which such recognition will be accorded and any disputes in this regard are yet to be framed, such amendments would give trade unions more legitimacy to discuss collective bargaining agreements with employers.

- Vinay Joy (Partner) and Luv Mohan Saggi (Associate)

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