

Mandatory recognition for trade unions likely

Now, a trade union will become the sole bargaining agent in a factory with multiple unions

Somesh Jha | New Delhi July 08, 2015 Last Updated at 00:59 IST



In a first, factories across the country might soon have to compulsorily recognise a trade union as a representative of its workers and engage in dialogue with it in case of a dispute.

Sources said the Union labour ministry had proposed a trade union in a factory be empowered as the 'principal bargaining agent' for settling a dispute or engaging in a discussion with employers. The union would be treated as a representative of the workers in the respective organisation based on membership, after a verification drive, ministry sources said.

"A trade union that gets a majority support of the workers in a factory will be deemed the sole bargaining agent. In case there is no majority, those with a prescribed percentage of support will be recognised. This is to ensure trade unions with limited support in an establishment don't become a trouble for employers," a senior labour ministry official said on condition of anonymity.

This is important in case a factory has multiple trade unions. In many factories in the country, workers are associated with various trade unions and there have been many cases in which unions have protested against non-recognition by the management.

Currently, there is no provision for recognition of trade unions in India's central labour laws. A provision in this regard would be inserted in the proposed industrial relations Bill, after discussions with industry and workers' representatives on July 14, sources said. However, as the law is under the Concurrent List of the Constitution, states will be free to either frame their own laws or follow the one mandated by Parliament.

To implement mandatory recognition of a trade union, Parliament had passed the Indian Trade Union (Amendment) Act, 1947, but it wasn't notified. Though there is a fundamental right to form unions and a statutory right to get it registered, there is no corresponding legal obligation on employers to recognise a particular trade union, even if it meets the terms of registration. Typically, managements refuse to recognise small or regional trade unions.

"Recognition is the process through which an employer accepts a particular trade union as having a representative character and, therefore, will be willing to engage in discussions with the union with respect to the interests of workers. This process is important to ensure smooth collective bargaining and stability in industrial relations," Nishith Desai Associates had said in a research paper, 'India: Trade Unions and Collective Bargaining', published in March this year.

MORE POWER TO UNIONS

- Now, a trade union will become the sole bargaining agent in a factory with multiple unions
- A trade union with support of most workers or with a prescribed percentage of support will be the bargaining agent
- Through recognition, an employer will have to compulsorily accept a particular trade union as the representative of the workers
- No central law lays down the procedure for recognition of trade unions
- Maharashtra, West Bengal, Kerala, Bihar and Odisha have rules to recognise trade unions
- Refusal of employers to recognise a trade union has been a trigger for many industrial disputes such as those in Maruti Suzuki's Manesar plant in 2011 and MRF's Tiruvallur plant in 2009

Maharashtra, West Bengal, Madhya Pradesh, Bihar, Kerala and Odisha have enacted rules for recognition of trade unions. In Maharashtra, a trade union functioning for at least six months is accorded recognition if its membership exceeds 30 per cent of the overall employee count.

"Maharashtra was the first state to do so. States such as Bihar and Madhya Pradesh also follow its model. In Kerala and West Bengal, a secret ballot is held to recognise a trade union as the sole bargaining agent," said K R Shyam Sundar, professor (human resource management), XLRI.

"Multiple trade unions fighting for their respective rights are a threat to industrial relations. Trade unions have been demanding recognition for a long time. The current law only provides for registration of unions, not recognition, and this lacuna has been in existence for 90 years," Sundar said. "Legislation in this regard will give strength to freedom of association and collective bargaining; unions' rights will be consolidated and this will lead to agreeable solutions and, consequently, fewer disputes."

Sundar said the absence of such a provision had led to employers creating their own unions, claiming these had the highest membership and engaging with these in case of disputes.

The refusal of employers to recognise trade unions has been a trigger for many industrial disputes in India. In 2009, there was a long stand-off between the workers and management of MRF's Tiruvallur plant in Tamil Nadu over recognition of a trade union. In 2011, Maruti Suzuki's Manesar plant had witnessed a 13-day stand-off, with the workers demanding recognition of a new trade union. The workers complained the trade union recognised by the company wasn't representative of them.

A proposal related to recognition of a trade union was recommended by a sub-committee formed by the labour ministry to examine the proposed industrial relations Bill. The sub-committee was tasked with drafting a set of recommendations, after trade unions had protested against certain provisions of the proposed Bill. A tripartite meeting on the proposed Bill is scheduled for July 14, and these recommendations would be taken up for discussion, sources said.