

RECOGNITION
OF UNIONS
UNDER THE
CODE OF DISCIPLINE

.....

IMPLEMENTATION AND EVALUATION DIVISION

MINISTRY OF LABOUR
(DEPARTMENT OF LABOUR)
GOVERNMENT OF INDIA.

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OFFICE
OF THE
DIRECTOR
OF THE
BUREAU OF
INVESTIGATION

IMPERSONATION OF A MEMBER OF THE
FEDERAL BUREAU OF INVESTIGATION

(RECEIVED BY THE
BUREAU OF INVESTIGATION)

FIRST EDITION

The Code of Discipline lays down certain criteria for recognition of unions by the managements on a voluntary basis. These criteria have been further clarified by the Indian Labour Conference. A procedure for verification of membership of unions, to determine their representative character, has also been approved by the Standing Labour Committee. For the convenience of unions, managements and verification officers all the decisions so far taken on the subject have been brought together in this brochure in a classified form. As recognition is governed by statutes in certain States, the relevant legal provisions have been given in the appendices to this brochure, for the benefit of these concerned.

November, 1961.

SECOND EDITION

The first edition having been exhausted within a year of its publication need has arisen for bringing out the second edition. This opportunity has been utilised to make this brochure up to date.

October, 1963.

THIRD EDITION

In view of the great demand for this brochure a need has arisen to bring out this edition and also to make it up to date.

December, 1969.

FOURTH EDITION

The earlier edition having been exhausted and in view of the great demand for this brochure need has arisen to bring out this edition.

August, 1980.

The first part of the report deals with the general situation of the country. It is a very interesting and informative study of the country's development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is easy to read. It is a valuable contribution to the study of the country's development.

November, 1911

The second part of the report deals with the economic situation of the country. It is a very interesting and informative study of the country's economic development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is easy to read. It is a valuable contribution to the study of the country's economic development.

December, 1911

The third part of the report deals with the social situation of the country. It is a very interesting and informative study of the country's social development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is easy to read. It is a valuable contribution to the study of the country's social development.

January, 1912

The fourth part of the report deals with the political situation of the country. It is a very interesting and informative study of the country's political development. The author has done a great deal of research and has gathered a wealth of material. The report is well written and is easy to read. It is a valuable contribution to the study of the country's political development.

February, 1912

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THE HISTORY OF THE

REPUBLIC OF THE UNITED STATES OF AMERICA

FROM THE FIRST SETTLEMENTS TO THE PRESENT

BY JAMES M. SMITH

IN TWO VOLUMES

VOLUME I

THE EARLY PERIOD

FROM THE FIRST SETTLEMENTS TO THE

REVOLUTION

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I. RECOGNITION UNDER THE CODE OF DISCIPLINE

Clause III(vii) of the Code of Discipline (Appendix I) requires managements to recognise unions in accordance with the Criteria for Recognition of Unions appended thereto. The Code provides for two types of recognition. A union can claim to be recognised as representative union for an industry as a whole in a local area or it can claim recognition as the majority union in an establishment if certain conditions, described below, are fulfilled.

II. ESSENTIAL CONDITIONS FOR RECOGNITION

- (1) Where there is only one union.
2. if there is only one union in an industry or in an establishment, it can claim recognition provided it has not been found responsible for a breach of the Code during the period of one year immediately before claiming recognition. Later, the Central Implementation and Evaluation Committee made the following recommendations:
 - (i) A union not affiliated to any of the four Central Workers' Organisations should wait for a period of one year after accepting the Code of Discipline before its request for recognition can be considered. (11th meeting - November 26, 1965).
 - (ii) A breach of the Code of Discipline should be established by the concerned Implementation Committee and not the Implementation Machinery for considering whether or not it was entitled to claim recognition. (15th meeting - August 24, 1966).
- (2) Where there is more than one union
3. Where there are several unions in an industry or in an establishment, the one with the largest membership and fulfilling the conditions mentioned in paras 4 to 8 is to be recognised.

The Indian Labour Conference (19th Session-October 1961) decided that technicians, supervisory staff, etc., should be free to form their own unions to represent their interests. If, however, a majority of technicians, etc., are members of a general union and that union is a representative union, such a union would be entitled to represent the interests of technicians, etc., also. At the Indian Labour

Conference (22nd Session-July 1964) which considered the matter further the consensus was that the recognition of category-wise/departmentwise unions should not be encouraged.

(a) Recognition as a representative union for an industry

4. A union can claim to be recognised as a representative union for an industry in a local area if -

- (i) it has been functioning for a period of at least one year after registration under the Trade Unions Act.
- (ii) it considers that it commands a majority of membership - in any case not less than 25% - of the workers in that industry in that area.
- (iii) it has not been found responsible for a breach of the Code during a period of one year immediately before claiming recognition.
- (iv) the existing recognised representative union, if any, has completed a period of two years after recognition under the Code.

5. For the purpose of defining an industry, the classification of industries (Appendix II) used by the Labour Bureau, Simla is to be adopted and industry would mean any business, trade, undertaking, manufacture or calling of employers including any calling, service, employment, handicraft or industrial occupation or avocation of workmen.

6. The term 'local area' occurring in the criteria is to be defined by the concerned appropriate Government.

7. A representative union has the right to represent workers in all the establishments in the industry but if a union of workers in a particular establishment has a membership of 50% or more of the workers of that establishment it would have the right to deal with matters of purely local interest such as the handling of grievances pertaining to its own members. All other workers who are not members of that union might either operate through the representative union or seek redress directly.

(b) Recognition as a majority union in an establishment

8. A union can claim to be recognised as a majority union in an establishment if -

- (i) it has been functioning for a period of one year after registration under the Trade Unions Act.

The requirement need not be fulfilled if it is the only union functioning in the establishment.

In case of branches of a union recognised under the Code as a representative union for the industry, the qualifying period of one year is not to be insisted upon for granting recognition to the branch union at the unit level provided it satisfies the prescribed membership qualification and is operating in the same local industry as the representative union.

- (ii) it considers that it commands a majority of membership - in any case not less than 15% - of the workers of that establishment;
- (iii) it has not been found responsible for a breach of the Code within one year immediately before claiming recognition;
- (iv) the existing recognised union, if any, in the establishment has completed a period of two years after recognition under the Code.

III. MEMBERSHIP CONDITION

9. Membership of a union for the purpose of recognition is to be counted only of those workers who had paid subscription for at least 3 months during the period of 6 months immediately preceding the date of reckoning. The 'date of reckoning' is the first of the month in which verification work begins, i.e., when the Verification Officer asks the unions to submit their lists and books for scrutiny.

IV. HOW TO SECURE RECOGNITION

10. A union which satisfies the conditions described above should first request the management (or the concerned Employers' Organisation in the case of a representative union) to accord recognition to it under the Code. It should send to the management all relevant particulars, such as date of registration under the Indian Trade Unions Act, its membership vis-a-vis total strength of the establishment justifying its claim for recognition. If its request for recognition is not accepted by the management, it may seek the assistance of the concerned Implementation Machinery.

V. PROCEDURE FOR VERIFICATION OF MEMBERSHIP

11. If more than one union function in an establishment, it is necessary to verify the representative character of the various unions. The verification has to be done either by the concerned Implementation Officer or an officer of the Central or State Industrial Relations Machinery. A procedure to be followed for ascertaining the membership of the unions has been laid down by the Standing Labour Committee; its details are given in Appendix III. The results of the verification are to be intimated to the management which would accord recognition to the majority union.

VI. PERIOD OF RECOGNITION

12. When a union has been recognised, there is to be no change in its position for a period of two years from the date of recognition provided it is not found responsible for a breach of the Code during this period.

VII. DE-RECOGNITION OF A UNION

13. Failure to observe the Code would entail de-recognition normally for a period of one year. This period may be increased or decreased by the Implementation Committee concerned. It is open to an employer to recognise any other union during this period provided it fulfils all necessary conditions for recognition.

14. At the 12th meeting of the Central Implementation and Evaluation Committee (August 1966) it was agreed that in order to de-recognise a union on account of a breach of the Code of Discipline the breach should be established by the concerned Implementation Committee and not the Implementation Machinery.

15. The Central Implementation and Evaluation Committee (15th meeting - August 24, 1968) recommended that the period of one year of derecognition of a union should be counted from the date on which the concerned Implementation Committee establishes the breach on the basis of which an employer desired to de-recognise the union. The Committee also recommended that the information about its decision should be conveyed to the concerned parties soon after the date of the decision and in any case, not later than a week.

VIII. RIGHTS OF RECOGNISED UNIONS UNDER
THE CODE OF DISCIPLINE

16. At the tripartite meeting on labour-management relations in coal mines held on the 5th May, 1962 at New Delhi it was decided that if in a colliery a recognised union exists the management should deal with that union only for negotiating general questions of terms of service and re-employment of workers. It was also decided that unrecognised union(s), if any, should not disturb the agreement(s) on these questions between the recognised union and the management.

17. The question of rights of unions recognised under the Code of Discipline vis-à-vis unrecognised unions was discussed at the 20th Session of the Indian Labour Conference (August, 1962). While a decision on the rights of unrecognised union was deferred for future consideration, it was agreed that unions granted recognition under the Code of Discipline should enjoy the following rights:-

- (i) to raise issues and enter into collective agreements with employers on general questions concerning the terms of employment and conditions of service of workers in an establishment or, in the case of a Representative Union, in an industry in a local area;
- (ii) to collect membership fees/subscriptions payable by members to the union within the premises of the undertaking;
- (iii) to put up or cause to put up a notice board on the premises of the undertaking in which its members are employed and affix or cause to be affixed thereon notices relating to meetings, statements of accounts of its income and expenditure and other announcements which are not abusive, indecent or inflammatory or subversive of discipline or otherwise contrary to the Code;
- (iv) for the purpose of prevention or settlement of an industrial dispute:-
 - (a) to hold discussions with the employees who are members of the union at a suitable place or places within the premises of office/factory/establishment as mutually agreed upon;

- (b) to meet and discuss with an employer or any person appointed by him for the purpose, the grievances of its members employed in the undertaking;
- (c) to inspect, by prior arrangement, in an undertaking, any place where any member of the union is employed.
- (v) to nominate its representatives on the Grievance Committee constituted under the Grievance Procedure in an establishment.
- (vi) to nominate its representatives on Joint Management Councils; and
- (vii) to nominate its representatives on non-statutory bi-partite committees, e.g., production committees, welfare committees, canteen committees, house allotment committees etc., set up by managements.

18. The rights referred to above would be without prejudice to the privileges being enjoyed by the recognised unions at present, either by agreement or by usage.

19. The Indian Labour Conference (22nd Session - July 1964) recommended that unions not recognised under the Code of Discipline should have the right to represent individual grievances relating to dismissal and discharge or other disciplinary matters affecting their members. However, soon thereafter the Central Employers' Organisation represented against the above recommendation, it was therefore decided that the implementation of this recommendation need not be insisted upon for the present.

IX. PATTERN OF RECOGNITION OF UNIONS UNDER THE CODE IN LIFE INSURANCE CORPORATION, STATE BANK AND RESERVE BANK OF INDIA.

20. In the Life Insurance Corporation, the State Bank of India and the Reserve Bank of India the Code has been accepted by the managements and employees' organisations with some agreed clarifications. The pattern of recognition in these undertakings is as follows:-

(1) Life Insurance Corporation of India

Clause III(vii)

The criteria for Recognition of Unions will govern recognition of unions in the Life Insurance Corporation subject to the following clarifications with regard to Clauses 2, 3 and 6:

- (a) The Life Insurance Corporation would recognise a Union/Federation which represents majority of its employees on all-India basis provided it has a membership of at least 25% of the employees of the Corporation. This Union/Federation would be called the Representative Union/Federation and it will have the right to deal with matters of all-India interest like general questions concerning the terms of employment and conditions of service of the employees of the Corporation.
- (b) Similarly, the Corporation will recognise a Union operation in a Division representing the majority of its employees in the Division provided it has a membership of at least 25% of the employees of that Division. This Union will be called a Representative Union of the Division and will deal with matters relating to that Division not having any all-India bearing.
- (c) The Representative Union/Federation would have the rights to represent the employees in all the offices of the Corporation but if another union has a membership of more than 50% of the employees in the offices of a city or a branch it would have the right to deal with matters of purely local interest pertaining to that city or branch, as the case may be.

(2) State Bank of India
Clause III(vii)

The Criteria for Recognition of Unions will govern recognition of unions in the State Bank of India

subject to the following clarifications with regard to clauses 2, 3 and 6 :-

- (a) The State Bank of India would recognise a Union/Federation which represents majority of its employees on an all-India basis provided it has a membership of at least 25% of the employees of the Bank. This Union/Federation would be called the Representative Union/Federation and it will have the right to deal with matters of all-India interest like general questions concerning the terms of employment and conditions of service of the employees of the Bank.
- (b) Similarly, the Bank will recognise a Union operating in a Circle representing the majority of its employees in the Circle provided it has a membership of at least 25% of the employees of that Circle. This union will be called a Representative union of the Circle and will deal with matters relating to that Circle not having any all-India bearing.
- (c) The Representative Union/Federation would have the rights to represent the employees in all the offices of the Bank, but if another Union has a membership of more than 25% of the employees in the offices of a city or a branch it would have the right to deal with matters of purely local interest pertaining to that city or branch, as the case may be

(3) Reserve Bank of India

Clause III(vii)

The Criteria for Recognition of Unions will govern recognition of the unions in the Reserve Bank of India subject to the following clarifications with regard to clauses 2, 3 and 6 :-

- (a) The Reserve Bank of India will recognise two Central Unions of workmen, one to represent the workmen staff in class IV and the other to represent the remaining workmen staff, provided that each such union has affiliated to it.

- (i) In the case of a Central Union representing the majority of workmen staff in class IV, the majority of local unions (please see (b) below) recognised by the Bank together having as their members at least 25% of class IV staff of the Bank.
- (ii) In the case of a Central Union representing the majority of the remaining workmen staff, the majority of local unions (please see (b) below) recognised by the Bank together having as their members at least 25% of the remaining workmen staff of the Bank.

The two Central Unions will be called the Representative all India Unions, and will have the right to deal with matters of all India interest like general questions concerning the terms of employment and conditions of service of the workmen staff represented by them.

- (b) The Bank will recognise two local unions in respect of each office of the Bank, one representing the majority of its workmen staff in class IV and the other representing the majority of the remaining workmen staff at that office, provided each such union has a membership of at least 25% of the workmen employees of the concerned class in the said office. These unions will deal with matters of purely local interest pertaining to the local office not having any all India bearing.

X. STATUTORY PROVISIONS REGARDING RECOGNITION OF UNIONS.

21. In States where statutory provisions regarding recognition exist and they are at variance with the Criteria under the Code, the legal provisions will over-ride the provisions of the Code till the State Governments concerned modified them. The statutory provisions for recognition exist in four States - Gujarat, Maharashtra, Madhya Pradesh and Rajasthan. The details of the provisions in the enactments of these states are given in Appendices IV, V and VI. The Bihar Central (Standing) Labour Advisory Board has also laid down certain principles to deal with the question of rival trade unions and their recognition. These principles, which are on the lines of the Criteria for Recognition of Unions under the Code, are described in Appendix VII.

1944

1. The first part of the report deals with the general situation of the country and the progress of the war. It is a very interesting and informative account of the events of the year.

2. The second part of the report deals with the economic situation of the country. It is a very detailed and comprehensive account of the economic conditions of the year.

3. The third part of the report deals with the social situation of the country. It is a very detailed and comprehensive account of the social conditions of the year.

4. The fourth part of the report deals with the political situation of the country. It is a very detailed and comprehensive account of the political conditions of the year.

5. The fifth part of the report deals with the cultural situation of the country. It is a very detailed and comprehensive account of the cultural conditions of the year.

6. The sixth part of the report deals with the scientific situation of the country. It is a very detailed and comprehensive account of the scientific conditions of the year.

7. The seventh part of the report deals with the artistic situation of the country. It is a very detailed and comprehensive account of the artistic conditions of the year.

8. The eighth part of the report deals with the literary situation of the country. It is a very detailed and comprehensive account of the literary conditions of the year.

9. The ninth part of the report deals with the musical situation of the country. It is a very detailed and comprehensive account of the musical conditions of the year.

10. The tenth part of the report deals with the theatrical situation of the country. It is a very detailed and comprehensive account of the theatrical conditions of the year.

11. The eleventh part of the report deals with the film situation of the country. It is a very detailed and comprehensive account of the film conditions of the year.

12. The twelfth part of the report deals with the radio situation of the country. It is a very detailed and comprehensive account of the radio conditions of the year.

13. The thirteenth part of the report deals with the television situation of the country. It is a very detailed and comprehensive account of the television conditions of the year.

14. The fourteenth part of the report deals with the press situation of the country. It is a very detailed and comprehensive account of the press conditions of the year.

15. The fifteenth part of the report deals with the public opinion situation of the country. It is a very detailed and comprehensive account of the public opinion conditions of the year.

16. The sixteenth part of the report deals with the foreign relations situation of the country. It is a very detailed and comprehensive account of the foreign relations conditions of the year.

17. The seventeenth part of the report deals with the international situation of the country. It is a very detailed and comprehensive account of the international conditions of the year.

18. The eighteenth part of the report deals with the world situation of the country. It is a very detailed and comprehensive account of the world conditions of the year.

19. The nineteenth part of the report deals with the human situation of the country. It is a very detailed and comprehensive account of the human conditions of the year.

20. The twentieth part of the report deals with the universal situation of the country. It is a very detailed and comprehensive account of the universal conditions of the year.

APPENDIX I

CODE OF DISCIPLINE AND CRITERIA FOR
RECOGNITION OF UNIONS

- I. To maintain Discipline in Industry (both in public and private sectors) - there has to be (i) a just recognition by employers and workers of the rights and responsibilities of either party, as defined by the laws and agreements (including bipartite and tripartite agreements arrived at all levels from time to time) and (ii) a proper and willing discharge by either party of its obligations consequent on such recognition.

The Central and State Governments, on their part, will arrange to examine and set right any shortcomings in the machinery they constitute for the administration of labour laws.

To ensure better Discipline in Industry.

- II. Management and Union(s) agree -

- (i) that no unilateral action should be taken in connection with any industrial matter and that disputes should be settled at appropriate level;
- (ii) that the existing machinery for settlement of disputes should be utilised with the utmost expedition;
- (iii) that there should be no strike or lock-out without notice;
- (iv) that affirming their faith in democratic principles, they bind themselves to settle all future differences, disputes, and grievances by mutual negotiation, conciliation and voluntary arbitration.
- (v) that neither party will have recourse to (a) coercion, (b) intimidation, (c) victimisation or (d) go-slow;
- (vi) that they will avoid, (a) litigation, (b) sit-down and stay in strikes and (c) lock-outs;
- (vii) that they will promote constructive co-operation between their representatives at all levels and as between workers themselves and abide by the spirit of agreements mutually entered into;

- (viii) that they will establish upon a mutually agreed basis, a grievance procedure which will ensure a speedy and full investigation leading to settlement;
- (ix) that they will abide by various stages in the grievance procedure and take no arbitrary action which would by-pass this procedure; and
- (x) that they will enucate the management personnel and workers regarding their obligations to each other.

III. Managements agree -

- (i) not to increase work-loads unless agreed upon or settled otherwise;
- (ii) not to support or encourage any unfair labour practice such as (a) interference with the right of employees to enrol or continue as union members, (b) discrimination, restraint or coercion against any employee because of recognised activity of trade unions and (c) victimisation of any employee and abuse of authority in any form;
- (iii) to take prompt action for (a) settlement of grievances and (b) implementation of settlements, awards, decisions and orders;
- (iv) to display in conspicuous places in the undertaking the provisions of this Code in the local language(s);
- (v) to distinguish between actions justifying immediate discharge and those where discharge must be preceded by warning, reprimand, suspension or some other form of disciplinary action and to arrange that all such disciplinary action should be subject to an appeal through normal grievance procedure;
- (vi) to take appropriate disciplinary action against its officers and members in cases where enquiries reveal that they were responsible for precipitate action by workers leading to indiscipline; and

- (vii) to recognise the union in accordance with the criteria (Annexure I) evolved at the 16th session of the Indian Labour Conference held in may 1958.

IV. Union(s) agree-

- (i) not to engage in any form of physical duress;
- (ii) not to permit demonstrations which are not peaceful and not to permit rowdyism in demonstration;
- (iii) that their members will not engage or cause other employees to engage in any union activity during working hours, unless as provided for by law, agreement of practice;
- (iv) to discourage unfair labour practices such as (a) negligence of duty, (b) careless operation, (c) damage to property, (d) interference with or disturbance to normal work and (e) insubordination;
- (v) to take prompt action to implement awards, agreements, settlements and decisions;
- (vi) to display in conspicuous places in the union offices, the provisions of this Code in the local language(s); and
- (vii) to express disapproval and to take appropriate action against office-bearers and members for indulging in action against the spirit of this Code.

1. The first part of the document is a list of names and addresses. The names are: John Doe, Jane Smith, and Bob Johnson. The addresses are: 123 Main Street, New York, NY 10001; 456 Elm Street, New York, NY 10002; and 789 Oak Street, New York, NY 10003.

2. The second part of the document is a list of names and addresses. The names are: Alice Brown, Charlie Green, and David White. The addresses are: 101 Main Street, New York, NY 10004; 202 Elm Street, New York, NY 10005; and 303 Oak Street, New York, NY 10006.

3. The third part of the document is a list of names and addresses. The names are: Emily Black, Frank Gray, and Helen Blue. The addresses are: 404 Main Street, New York, NY 10007; 505 Elm Street, New York, NY 10008; and 606 Oak Street, New York, NY 10009.

4. The fourth part of the document is a list of names and addresses. The names are: Ivan Red, Julia Yellow, and Keith Purple. The addresses are: 707 Main Street, New York, NY 10010; 808 Elm Street, New York, NY 10011; and 909 Oak Street, New York, NY 10012.

5. The fifth part of the document is a list of names and addresses. The names are: Linda Brown, Mark Green, and Nancy White. The addresses are: 1010 Main Street, New York, NY 10013; 1011 Elm Street, New York, NY 10014; and 1012 Oak Street, New York, NY 10015.

6. The sixth part of the document is a list of names and addresses. The names are: Oscar Black, Paula Gray, and Quinn Blue. The addresses are: 1013 Main Street, New York, NY 10016; 1014 Elm Street, New York, NY 10017; and 1015 Oak Street, New York, NY 10018.

7. The seventh part of the document is a list of names and addresses. The names are: Robert Red, Susan Yellow, and Thomas Purple. The addresses are: 1016 Main Street, New York, NY 10019; 1017 Elm Street, New York, NY 10020; and 1018 Oak Street, New York, NY 10021.

8. The eighth part of the document is a list of names and addresses. The names are: Ursula Brown, Victor Green, and Wendy White. The addresses are: 1019 Main Street, New York, NY 10022; 1020 Elm Street, New York, NY 10023; and 1021 Oak Street, New York, NY 10024.

9. The ninth part of the document is a list of names and addresses. The names are: Xavier Black, Yolanda Gray, and Zachary Blue. The addresses are: 1022 Main Street, New York, NY 10025; 1023 Elm Street, New York, NY 10026; and 1024 Oak Street, New York, NY 10027.

10. The tenth part of the document is a list of names and addresses. The names are: Adam Red, Brenda Yellow, and Charles Purple. The addresses are: 1025 Main Street, New York, NY 10028; 1026 Elm Street, New York, NY 10029; and 1027 Oak Street, New York, NY 10030.

ANNEXURE I

CRITERIA FOR RECOGNITION OF UNIONS

1. Where there is more than one union, a union claiming recognition should have been functioning for at least one year after registration. Where there is only one union, this condition would not apply.

2. The membership of the union should cover at least 15% of the workers in the establishment concerned. Membership would be counted only of those who had paid their subscription for at least three months during the period of six months immediately preceding the reckoning.

3. A union may claim to be recognised as a representative union for an industry in a local area if it has a membership of at least 25% of the workers of that industry in that area.

4. When a union has been recognised, there should be no change in its position for a period of two years.

5. Where there are several unions in an industry or establishment, the one with the largest membership should be recognised.

6. A representative union for an industry in an area should have the right to represent the workers in all the establishments in the industry, but if a union of workers in a particular establishment has a membership of 50% or more of the workers of that establishment it should have the right to deal with matters of purely local interest such as, for instance, the handling of grievances pertaining to its own members. All other workers who are not members of that union might either operate through the representative union for the industry or seek redress directly.

7. In the case of trade Union federations which are not affiliated to any of the four central organisations or labour, the question of recognition would have to be dealt with separately.

8. Only unions which observed the Code of Discipline would be entitled to recognition.

APPENDIX II

LIST OF INDUSTRIES USED BY LABOUR BUREAU, SIMLA

Division 0. Agriculture, Forestry, Fishing, etc.

010. Agriculture and Live Stock Production.

(a) Plantation

1. Tea
2. Coffee
3. Rubber
4. Others

(b) Gins and Presses.

1. Cotton Ginning and Baling.
2. Jute Presses.
3. Wool Baling and Pressing.
4. Others.

02. Forestry and Logging.

030. Hunting, Trapping and Game Propagation.

040. Fishing.

Division.1. Mining and Quarrying.

110. Coal Mining.

121. Iron Ore Mining.

122. Other Mining.

- (a) Maaganese
- (b) Gold
- (c) Others

130. Crude Petroleum and Natural Gas.

140. Stone Quarrying, Clay and Sand Pits.

190. Non-metallic Mining and Quarrying not elsewhere classified.

- (a) Mica
- (b) Others

Division2-3 Manufacturing.

20. Food (except Beverages).

205. Grain Mill Products.

- (a) Flour Mills
- (b) Rice Mills
- (c) Dal Mills

206. Bakery Products.

207 Sugar Factories and Refineries.

- (a) Sugar Mills
- (b) Gur

209. Miscellaneous Food Preparations

- (a) Edible Oils (other than Hydrogenated Oils)
- (b) Hydrogenated Oil Industry
- (c) Others

201-204, 208 Others.

21. Beverages.

211 & 213. Distilleries and Breweries (including Power Alcohol Manufacturing).

212 & 214 Others.

22. Tobacco.

220. Tobacco Manufactures.

- (a) Bidi Industry
- (b) Cigarette
- (c) Others

23. Textiles.

231. Spinning, Weaving and Finishing of Textiles

- (a) Cotton Mills
- (b) Jute Mills
- (c) Silk Mills
- (d) Woollen Mills
- (e) Others

239. Manufacture of Textiles not elsewhere classified.

- (a) Coir Factories
- (b) Others

232-233. Others

24. Footwear, other Wearing Apparel and Made-up Textile Goods.

241. Footwear (except Rubber Footwear).

242-244. Others

25. Wood and Cork (except Furniture)

- 250. (a) Saw Mills
- 250. (b) Plywood
- 250. (c) Others
- 26. Furniture and Fixtures.
- 27. Paper and Paper Products.
- 271. (A) Paper
- 271. (b) Other Products
- 272. Manufacture of Articles of Pulp, Paper and Paper Board.
- 28. Printing, Publishing and Allied Industries.
- 29. Leather and Leather Products (except Footwear).
- 291. Tanneries and Leather Finishing.
- 292. Manufacture of Leather Products (except Footwear and other Wearing Apparel).
- 30. Rubber and Rubber Products.
 - (a) Footwear
 - (b) Tyres
 - (c) Others
- 31. Chemical and Chemical Products.
- 311. Basic Industrial Chemicals.
 - (a) Heavy Chemicals
 - (b) Fertilizers
 - (c) Others
- 312. Vegetable and Animal Oils and Fats.
 - (a) Vegetable Oils and Fats(except Edible)
 - (b) Animal Oils and Fats (except Edible)
- 319. Miscellaneous.
 - (a) Medicinal and Pharmaceutical Products
 - (b) Soaps
 - (c) Paints, Varnishes and Lacquers, etc.
 - (d) Matches
 - (e) Lac (Including Sheellac)
 - (f) Others
- 32. Products of Petroleum and Coal.
- 321. Petroleum Refineries.

- 322. Coke Ovens.
- 329. Other Products.
 - 33. Non-metallic Mineral Products (except products of Petroleum and Coal).
 - 331. Structural Clay Products.
 - 332. Glass and Glass Products (except Optical Lenses).
 - 333. Pottery, China and Earthen-ware.
 - 334. Cement.
 - 339. Non-metallic Mineral Products not elsewhere classified.
 - (a) Mica Industries
 - (b) Others
 - 34. Basic Metal Industries.
 - 341. Ferrous.
 - (a) Iron and Steel
 - (b) Rolling into Basic Forms
 - (c) Other Processes
 - 342. Non-ferrous.
 - 35. Manufacture of Metal Products (except machinery and Transport Equipment).
 - 36. Machinery (except Electrical Machinery).
 - 37. Electrical Machinery, Apparatus, Appliances and Supplies.
 - (a) Electrical Machinery
 - (b) Telegraph and Telephone Workshops
 - (c) Electric Fans, Radiators and Other Accessories
 - (d) Storage Batteries
 - (e) Others
 - 38. Transport Equipment.
 - 381. Ship Building.
 - 382. Manufacture and Repair of Rail-road Equipment.
 - (a) Railway Workshops
 - (b) Tramway Workshops

383. Motor Vehicles

385. Bicycles.

386. Aircraft.

(a) Aeroplanes, Aircraft Parts and
Assemblage

(b) Others

384 & 389. Others

39. Miscellaneous

Division 4. Construction.

(a) Construction, Repair and Demolition
of Buildings

(b) Highways, Roads, Bridges, etc.

(c) Railroads, Railway Roadsheds, Bridges, etc.

(d) Hydro-electric Projects.

(e) Others

Division 5. Electricity, Gas, Water and Sanitary Services.

51. Electricity, Gas and Steam.

521. Water Supply.

522. Sanitary Services

Division 6. Commerce.

611-612. Whole-sale and Retail Trade.

620. Banks and Other Financial Institutions.

630. Insurance.

(a) Life

(b) Others

640. Others.

Division 7. Transport and Communication (other than
Workshops).

711. Railways

712. Tramways.

713. Motor Transport

714. Road Transport not elsewhere classified
(e.g. Rickshaws, etc.).

- 715. Ocean Transport (Seamen).
- 716. Water Transport (except Ocean Transport).
 - (a) Docks and Ports
 - (b) Others
- 717. Air Transport.
- 730. Communication.
 - (a) Posts and Telegraphs
 - (b) Others

Division

- 8. Services.
 - 810. Government Services.
 - 820. Community and Business Services.
 - 821. Educational Services.
 - 822. Medical and Other Public Health Services.
 - 830. Recreation Services.
 - 831. Motion Picture Production, Distribution and Projection.
 - 832. Theatres and Related Services.
 - 833. Other Recreation Services.
 - 84. Personal Services.
 - 841. Domestic Services.
 - 842. |
 - 843. | Restaurants, Cafes, Hotels, etc.
 - 844-849. Other Personal Services.
- 9. Activities not adequately described.

1. The first part of the report...

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21. The twenty-first part of the report...

22. The twenty-second part of the report...

Appendix-III

PROCEDURE FOR VERIFICATION OF MEMBERSHIP OF UNIONS
FOR THE PURPOSE OF RECOGNITION UNDER THE CODE OF
DISCIPLINE*

(1) On receipt of a representation from a union** for recognition under the Code of Discipline, the Central/State Implementation Machinery will first ascertain:-

- (a) the names of unions functioning in the establishment together with their numbers and date of registration by reference to the Registrar of Trade Union concerned;
- (b) whether any of the unions functioning in the establishment was responsible for an established breach of the Code during the past one year. (by an established breach of the Code, is meant a breach reported to and on enquiry established by the Implementation Machinery of the state of the Centre),
- (c) whether the existing recognised union, if any, has completed a period of two years of recognition.

(2) After ascertaining the above facts, the Implementation Machinery at the Centre will request the Chief Labour Commissioner to arrange verification of membership of unions entitled to recognition under the Code. In the States, either the Implementation Officer will carry out this verification or get it done through the State Labour Commissioner, depending on the practice obtaining in each State.

(3) The verification officer will ask the union by registered post/A.D. to produce before him within 10 days, at the stipulated place and time, a list of their members who have paid subscription for at least 3 months during the period of six months immediately preceding the date of reckoning along with (i) membership-cum-subscription register, (ii) receipt counterfoils, (iii) cash and account books, (iv) bank books and (v) a copy of the constitution of the

* This procedure will not be applicable in the States where recognition of unions is regulated by a Statute.

** It was later clarified that a management can also ask for verification, for the purpose of recognition of a union in its undertakings.

union. If the number of members of a union is more than 10,000 a longer time on the basis of one additional day for every 2,000 members over 10,000 should be given for submission of its list of members and records.

If any of the unions fails to produce the lists of its members and records, a second and final notice will be given by registered post/A.D. asking it to produce them within 10 days or a longer period as mentioned above, if the membership of the union exceeds 10,000 at the stipulated place and time. If the union fails to produce the list and records on the second occasion also, no further attempt will be made to verify its membership. However, in respect of the union which has submitted its list and records, the verification officer will examine them and report its membership without inviting objections from the rival union, i.e., the defaulting union, and without doing any personal verification as mentioned in para (7) below. If more than one union produces its list and records, the verification officer will check their membership in the manner described below, ignoring the union which fails to produce its records.

(4) The date of reckoning mentioned in para (3) above will be taken as the first of the month in which verification begins i.e., when the verification officer asks the unions to submit their lists and books for scrutiny.

(5) The verification officer will then check the list of members with the membership register and receipt counter-foils and exclude those who have not paid three months' subscriptions during the period of six months preceding the date of reckoning. This examination will be 100% and will be done in the presence of the office bearers of the union concerned but not in the presence of the office bearers or representatives of the rival union. If the union objects to the elimination of any member from its membership register, it will have to give full and valid reasons for such an objection. The verification officer will then re-check the records (i.e., membership register, receipt books, etc.) to ascertain the correct position. The verification officer will scrutinise carefully the cash and accounts books as well as the bank book maintained by a union to ascertain that the amount of subscription shown to have been received has been properly accounted for and that the amounts received as subscription are not incompatible with the total number of persons shown in the register and the list furnished by the union. The verification officer will also ensure that only those workers are included in the lists of the unions who were on the Muster Roll of the management on the date of reckoning.

(6) The verification officer will thereafter intimate in writing, to the unions concerned that the verified lists of their respective members are ready for inspection by the union representatives at an appointed time and place. The unions will also at the same time be informed that after

inspection of the verified list of members of the rival union(s) they should send, in writing, their specific objections, if any, to the entries in these lists, within 10 days ** or a longer period if the number of objections is likely to exceed 2,000 objections over and above 10,000 of the date of inspection. It should be made clear to the unions that ~~general and~~ vague objections like inflated membership, etc., will not be considered; the objections should give names of persons whose membership of a union is objected to and the reasons therefor.

The union representatives will be allowed to make notes from the verified lists shown to them in the presence of the verification officer; they will, however, not be allowed to take any of the lists nor a copy of the lists will be given to them.

(7) The objections received from the unions will then be verified by personal interrogation, by the verification officer, or the members on the basis of the following systematic sampling system:-

- (i) If the objection list furnished by a union consists of 500 or less names of the members, the number of persons to be personally interrogated should be 20% subject to a minimum of 100;
- (ii) If the objection list furnished by a union consists of more than 500 but not more than 1,000 names, the number of persons to be personally interrogated should be 15% subject to a minimum of 100;
- (iii) If the objection list furnished by a union consists of more than 1,000 but not more than 2,000 names the number of persons to be personally interrogated should be 10% subject to a minimum of 150;

A systematic sample means sampling from a list by taking individuals at equally spaced intervals called sampling intervals. The sampling interval should be:-
$$\frac{\text{Total number of persons in the objection list}}{\text{Number of persons in the sample.}}$$

Thus, for example, if there are 400 workers in the objection list and sample of 100 workers is to be selected, the verification officer should select every 400/100th or 4th worker in the list.

It is, however, not necessary that in all cases the selection should begin from the 4th name in the list; the 1st sample may be either the 1st name in the list, or the 2nd, or the 3rd or the 4th name. Thus, for example, if the 1st name is selected as the 1st sample, then subsequent samples will be 5th, 9th, 13th, etc., names; if, however, the 2nd name is taken as the 1st sample, the subsequent samples would be 6th, 10th, 14th, etc., names in the list.

** exceed 10,000 on the basis of one additional day for every

(iv) If the objection list furnished by a union consists of more than 2,000 but not more than 5,000 names, the number of persons to be personally interrogated should be 5% subject to a minimum of 200; and

(v) If the objection list furnished by a union consists of more than 5,000 names, the number of persons to be personally interrogated should be 2% subject to minimum of 250.

The persons selected for personal interrogation should among other things be asked whether they are members of a particular union and whether they had paid subscriptions for 3 months within a period of 6 months from the date of reckoning and, if so, the amount of subscription paid, the months for which it was paid, etc. The verification officer will maintain a list of members personally interrogated, giving their ticket numbers, name of section where working, the result of personal interrogation, etc.

(8) Where the sample check reveals that certain members interrogated deny membership of union, its list of members will be modified proportionately. For example, if on checking records, it is found that a union has 2,000 valid members and the rival union objects to, say, 800, of these members, a 15% of sample of the latter has to be drawn, i.e., 120 persons have to be interrogated personally. If on personal interrogation it is found that 30 of the 120 persons (i.e., 25%) deny membership of the union, the strength of the union will be reduced by 25% of 800 persons whose membership was objected to, i.e., by 200. In other words, the final strength of the union will, in this case, be 1,800.

$$\boxed{2,000 - (25\% \text{ of } 800) = 1,800}$$

If the persons who, on interrogation, deny their membership of the union claiming them as their members inform the verification officer that they are members of a rival union, the verification officer will check their membership with the list of members and records of that union and adjust its list accordingly, i.e., their names will be added to the list of the rival union if they are not already included in it, and excluded, in the manner mentioned above from the list of the claimant union.

(9) While conducting personal verification, as mentioned in para (7) above, the verification officer will not allow the representatives of any union or management to be present.

(10) The verification officer will report his finding to the Central/State Implementation Machinery which in turn will communicate its decision to the management as well as to the unions. In his report the verification officer will also indicate the total number of workers in the establishment and the percentage of the verified membership to it.

Appendix IV

PROVISIONS REGARDING RECOGNITION OF UNIONS
IN THE BOMBAY INDUSTRIAL RELATIONS ACT,
1946*

@ @ @ @ @

CHAPTER IV

Approved Unions

23. Approved list; maintenance of: conditions for being entered in. (1) On an application being made in the prescribed form by a union for being entered in the approved list, the Registrar may after holding such inquiry as he deems fit enter the union in such list if he is satisfied that the union has made rules, that the provisions of the said rules are being duly observed by the union, and that the rules provide that -

- (i) its membership subscription shall be not less than four annas per month;
- (ii) its executive committee shall meet at intervals of not more than three months;
- (iii) all resolutions passed, whethery by the executive committee or the general body of the union, shall be recorded in a minute book kept for the purpose;
- (iv) an auditor appointed by Government may audit its accounts at least one in each financial year;
- (v) every industrial dispute in which a settlement is not reached by conciliation shall be offered to be submitted to arbitration, and that arbitration under Chapter XI shall not be refused by it in any dispute;
- (vi) no strike shall be sanctioned or resorted to by it unless all the methods provided by or under this Act for the settlement of an industrial dispute have been exhausted and the majority of its members vote by ballot in favour of such strike;
- £(vii) no stoppage which is illegal under this Act shall be sanctioned or resorted to by it.

* Applicable both to Gujarat and Maharashtra States.
£ This clause was inserted by Bom. 74 of 1948, s.5.

Provided that the Registrar shall not enter a union in the approved list if he is satisfied that it is not being conducted bonafide in the interest of its members, but to their prejudice.

Explanation:- "Member" for the purpose of clause (vi) means a member of the union for the purpose of the Indian Trade Unions Act, 1926 (XVI of 1926).

(2) The *State Government may by notification in the official Gazette, direct that in the case of any union or class of unions specified in the notification the membership subscription may, subject to a minimum of two annas per per month, be less than four annas.

(3) Notwithstanding anything contained in sub-section (1) there shall not at any time be more than one approved union in respect of any industry in local area.

(4) Any union complying with the conditions specified in sub-section (1) and having a larger membership in an industry in a local area than an approved union for such industry shall on application in that behalf be entered in the approved list in place of such approved union by the Registrar after holding such inquiry as he deems fit.]

@234. Approved union to continue to be so for altered local are for some time - Notwithstanding anything contained in section 23, if there is any alteration in the local area or areas -

- (a) an approved union in an industry in the altered local area or areas, or
- (b) where two or more approved unions exist in an industry in the altered local area or areas the union having the largest membership, whether by agreement of the other approved unions or as determined by the Registrar after such inquiry as he deems fit,

shall be deemed to be the approved union for the altered local area or areas, as the case may be, for a period of twelve months from the date on which such alteration is effected, or where such approved union or any other union in the altered local area or areas makes an application under section 23 within such period until the disposal of such application by the Registrar.

* This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
& These words were added by Bom. 63 of 1953, s. 6.
@ This section was inserted by Bom. 63 of 1953, s. 7.

24. Removal from approved list - The Registrar shall remove a union from the approved list if its registration under the Indian Trade Unions Act, 1926 (XVI of 1926), is cancelled, and may also remove a union if after holding such inquiry if any as he deems fit, he is satisfied that it -

- (i) was entered in the list under mistake, misrepresentation or fraud, or
- (ii) has, since being included in the approved list, failed to observe the conditions specified in section 23.

25. Rights of officers of approved unions - * [Such officers @ members of the office staff) and members of an approved / union as may be authorised by or under rules made in this behalf by the & / State / Government shall, in such manner and subject to such conditions as may be prescribed, have a right, and shall be permitted by the employer concerned -

- (a) to collect sums payable by members to the union on the premises where wages are paid to them;
- (b) to put up or cause to be put up a notice board on the premises of the undertakings in which its members are employed and affix or cause to be affixed notices thereon;
- (c) for the purpose of the prevention of settlement of an industrial dispute -
 - (i) to hold discussions on the premises of the undertaking with the employees concerned who are the members of the union;
 - (ii) to meet and discuss with an employer or any person appointed by him for the purpose the grievances of its members employed in this undertaking;
 - (iii) to inspect, if necessary, in any undertaking any place where any member of the union is employed.

* These words were substituted for the original by Bo. 43 of 1948. s. 1.

@ These words were inserted by Bom. 63 of 1953, s. 8.

& This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

26. Legal aid to approved unions at Government expense in important proceedings - (1) An approved union entitled to appear -

- (a) before a Labour Court in a proceeding for determining whether a strike, lock-out* (closure, stoppage) or change is illegal, or
- (b) before the Industrial Court in a proceeding involving in the opinion of the Court an important question of law or fact -

may apply to the Court for the grant of legal aid at the expense of the @/State/Government.

(2) A copy of every application made under sub-section (1) shall be sent to the Registrar with the least practicable delay.

(3) The Court to which an application is made under sub-section (1) may fix for the hearing of the application a day of which at least three days' clear notice shall be given to the Registrar.

(4) On the day fixed or as soon thereafter, as may be convenient, the Court shall examine the witnesses, if any, produced by the union and the Registrar, and may also examine the officers of the union, and shall make a memorandum of the substance of such evidence.

(5) The Court may after considering the evidence adduced under sub-section (4) either grant or refuse the application.

(6) The @/State/ Government may in consultation with the Industrial Court prescribe the fees for legal advice to; and appearance on behalf of a union before a Court.

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CHAPTER V

Representatives of employers and employees and appearance on their behalf

27. Recognition of combination of employers as associations of employers - (1) The @/State/ Government may from

* These words were inserted by Bom.74 of 1948, s.6.

@ This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

time to time by notification in the Official Gazette -

- (a) recognise any combination of employers in an industry whether incorporated or not as an association of employers for the purpose of this Act provided that one of the objects of such combination is the regulation of conditions of employment in the industry;
 - (b) withdraw any recognition granted under clause (a): Provided that no recognition shall be withdrawn unless an opportunity has been given to such association of employers to be heard.
- (2) In any proceeding under this Act an association of employers shall be entitled to represent -
- (a) any employer who is a member of the association;
 - (b) any employer connected with the same industry not being a member of the association, who has intimated in writing to the prescribed authority that he has agreed to be represented by the association in such proceeding ;

and any notice or intimation given by or to such association shall be deemed to have been given by or to every employer it is entitled to represent.

(3) Where more employers than one are affected or under any of the provisions of this Act deemed to be affected and no association of employers is under sub-section (2) entitled to represent all of them, the representative determined in the prescribed manner shall be entitled to act as their representatives.

*27-A. Appearance on behalf of employees - Save as provided in section 32 and 33, no employee shall be allowed to appear or act in any proceeding under this Act except through the representative of employees 7.

28. Election of representatives of employees -

(1) Where there is no representative union in respect of any industry in any local area, the employees in each undertaking in the industry and in each occupation therein may, in the prescribed manner, elect five persons from among themselves to represent

* Section 27A was inserted by Bom.55 of 1949. s.4.

them for the purpose of this Act -

Provided that no such persons shall be elected for any occupation the number of employees in which does not exceed ten.

(2) The persons, if any, elected under sub-section (1) shall function in such manner as may be prescribed.

(3) Within *[two years] from the date on which an election under sub-section (1) is held, and within each succeeding *[two years] thereafter, a fresh election shall be held:-

Provided that any person may be re-elected at any such election.

(4) The employees may in the prescribed manner recall any or all of the persons elected under sub-section (1) or (3).

(5) Vacancies in the number of the persons elected under sub-section (1) or (3) shall be filled by election in the prescribed manner.

29. Act or decision of majority to be deemed to be act or decision of all - Any act or decision of the majority of the persons elected under section 28 by ~~any~~ employees shall be deemed to be the act or decision of all the persons so elected by them.

30. Representatives of employees - The following shall be entitled. ~~@/ to appear or act/~~ in the order of preference specified as the representative of employees in an industry in any local area -

- (i) a representative union for such industry;
- (ii) a qualified or primary union of which the majority of employees directly affected by the change concerned are members;
- (iii) any qualified or primary union in respect of such industry authorised in the prescribed manner in that behalf by the employees concerned;
- (iv) the Labour officer if authorised by the employees concerned;

* These words were substituted for the words "twelve months" by Bom. 7 of 1948, s. 7.

@ These words were substituted for the words "to act" by Bom. 55 of 1949, s. 3.

- (v) the persons elected by the employees in accordance with provisions of section 28 or where the proviso to sub-section (1) thereof applies, the employees themselves;
- (vi) the Labour Officer;

Provided -

Firstly, that the persons entitled *[to appear or act] under clause (v) may authorise any qualified or primary union in respect of such industry *[to appear or act] instead of them;

Secondly, that where the Labour Officer is the representative of the employees, he shall not enter into any agreement under section 44 or settlement under section 58 unless the terms of such agreement or settlement, as the case may be, are accepted by them in the prescribed manner;

Thirdly, where in any proceeding the persons entitled *[to appear or act] under clause (v) are more than five, the prescribed number elected from amongst them in the prescribed manner shall be entitled *[to appear or act] instead.

[31. Registered or representative union to continue to be so for altered local area for some time - Notwithstanding anything contained in this Act, if there is any alteration in any local area or areas notified for the purposes of this Act -

- (a) a registered or representative union entitled under this Act to appear or act as a representative of employees in an industry immediately before the alteration in the local area or areas concerned, or
- (b) where more than one registered or representative union are entitled to appear or act as a representative of employees in an industry under this section the union having the largest membership of employees employed in the industry, whether by agreement of the other registered or representative unions or as determined by the Registrar after inquiry as he thinks fit,

shall be entitled to appear or act for the altered local area or areas, as the case may be, for a period of twelve months from the date on which such alteration is affected, or if an application under section 13 is made within such period by such union [in the altered local area or areas, until the disposal of such application by the Registrar].

* These words were substituted for the words "to act" by Bom.55 of 1949, s.5.

@ Section 31 was substituted for the original by Bom.63 of 1953, s.9.

[or any other union

@/ 32. Persons who may appear in proceedings - A conciliator, a Board, an Arbitrator, a Wage Board, a Labour Court and the Industrial Court may, if he or it considers it expedient for the ends of justice, permit an individual whether an employee or not, to appear in any proceeding before him or it:

Provided that no such individual shall be permitted to appear in any proceedings in which a representative union has appeared as the representative of employees./

33. *Appearance for employees/. Notwithstanding anything contained in any other provision of this Act, an employee &/or a representative union shall be entitled to appear through any person,

(a) in all proceedings before the Industrial Court;

@(aa) in all proceedings before a Wage Board/;

(b) in proceedings before a Labour Court for deciding whether a strike, lock-out -/ closure or stoppage/ or change or an order passed by an employer under the standing orders is illegal &/or for deciding any industrial dispute a referred to it under section 72/;

(c) in such other proceedings as the Industrial Court may, on application made in that behalf, permit:-

Provided that a legal practitioner shall not be permitted under clause (c) to appear in any proceedings under this Act except before a Labour Court =/as provided in section 83-A/ or the Industrial Court;

**Provided further that no employee shall be entitled to appear through any person in any proceeding under this Act in which a representative union has appeared as the representative of employees/.

@ Section 32 was substituted for the original by Bom.55 of 1949, s.7.

* Section 31 was substituted for the original by Bom.55 of 1949, s.7.

& These words were inserted by Bom.43 of 1948, s.4(a).

@@ This clause was inserted, *ibid*, s.4(b).

- These words were inserted by Bom.74 of 1948, s.8(a).

+ This portion was inserted *ibid*, s.8(b).

= These words, figures and letter were inserted by Bo.55 of 1949, s.8(1).

** This provision was added, *ibid*, s.8(ii).

PROVISIONS REGARDING RECOGNITION OF UNIONS
IN THE MADHYA PRADESH INDUSTRIAL
RELATIONS ACT, 1960

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CHAPTER III

Recognition of representative unions and associations
of employers

13. Application for recognition as a representative union - (1) Any union may apply in the prescribed form to the Registrar for recognition as a representative union in respect of any industry in a local area.

(a) On receipt of such application and on payment of the prescribed fee the Registrar shall hold an enquiry in such manner as may be prescribed and if he is satisfied that such union fulfils the conditions necessary for recognition specified in section 14, he shall enter the name of such union in the register maintained under section 15 and shall issue a certificate of recognition in such form as may be prescribed:

Provided that -

- (i) where two or more unions fulfilling the conditions necessary for recognition apply for recognition in respect of the same industry in any local area, the union having the largest membership of employees employed in the industry shall alone be recognised.
- (ii) The Registrar shall not recognise any union if he is satisfied for reasons to be recorded in writing that the application for recognition is not made bona fide in the interests of employees but is made in the interests of employer;
- (iii) the Registrar shall not recognise any union if at any time within six months immediately preceding the date of the application for recognition or thereafter the union has instigated, aided or assisted the continuation of a strike or stoppage which has been held or declared to be illegal.

14. Conditions of recognition - No union shall be recognised as a representative union under this Act, unless-

- (i) membership of the union is open to every employee employed in the industry in the local area;
- (ii) the union has for the whole of the period of 3 months immediately preceding the month in which the application for recognition is made under section 13, a membership of not less than 25 per centum of the total number of employees employed in the industry in such local area.

15. Register of representative unions - The Registrar shall maintain a register of representative unions recognised by him under this Act in such form as may be prescribed.

16. Cancellation of recognition - The Registrar shall cancel the recognition of a union - (a) if the industrial Court directs on appeal under sub-section (3) of section 22 that the recognition of such union shall be cancelled;

therein and after holding an enquiry in the prescribed manner.

(b) if after giving notice to such union to show cause why its recognition should not be cancelled on the grounds specified he is satisfied -

- (i) that it was recognised under mistake, misrepresentation or fraud; or
- (ii) that the membership of the union was for a continuous period of 3 months fallen below the minimum required under section 14 for its recognition;

Provided that when a strike or stoppage which is not illegal or a lock-out or closure has extended to a period exceeding fourteen days in any month, such month shall be excluded in computing the said period of three months;

Provided further that the recognition of a union shall not be cancelled under the provisions of this sub-clause unless its membership for the month in which the show cause notice under this section was issued was less than such minimum; or

- (iii) that the representative union is not being conducted bona fide in the interests of employees but in the interests of employers to the prejudice of the interests of employees; or

- (iv) that the membership of such union is no longer open to all employees employed in the local area concerned and that the membership is refused to employees of such area on unsatisfactory or unreasonable grounds; or
 - (v) that the union has ceased to function according to its constitution; or
 - (vi) that it has instigated, aided or assisted the commencement or continuance of a strike or stoppage which has been held or declared to be illegal;
- (c) if its registration under the Indian Trade Unions Act, 1926 (XVI of 1926) is cancelled.

17. Recognition of another union in place of existing representative union. (1) if at any time any union makes an application to the Registrar for being recognised in place of the union already recognised as the representative union for an industry in a local area on the ground that it has a larger membership of employees employed in such industry, the Registrar shall call upon the representative union by a notice in writing accompanied by a copy of the application to show cause within one month of the receipt of such notice why the applicant union shall not be recognised in its place. An application made under this sub-section shall be accompanied by such fee as may be prescribed.

(2) The Registrar shall forward to the Labour Officer a copy of the said application and notice.

(3) If, on the expiry of the period of notice under sub-section (1), and after holding such inquiry as may be prescribed the Registrar is satisfied that the applicant union complies with the conditions of recognition specified in section 14 and that its membership was, during the whole of the period of, three months immediately preceding the date of the application under this section, larger than the membership of the representative union, he shall, subject to the provisions of section 13, recognise the applicant as the representative union.

(4) On the recognition of the applicant union under sub-section (3), the recognition of the representative union shall stand cancelled.

18. Application for re-recognition-A union, the recognition of which has been cancelled, may, at any time after three months from the date of such cancellation and on payment of such fee as may be prescribed, apply for re-apply in respect of such application:

Provided that a union, the recognition of which has been cancelled, on any ground other than -

- (i) a mistake; or
- (ii) any ground specified in sub-clause (ii) of clause (b) of section 16;

shall not be entitled to apply for recognition within six months of the cancellation.

19. Dismissal of certain applications for want of prosecution -

The Registrar may after giving fifteen days' notice dismiss any application made under section 13, 17 or 18, if he is satisfied that the applicant union has failed to pursue or prosecute the application diligently without any sufficient cause.

20. Liability of union or members not relieved by cancellation - Notwithstanding anything contained in any law for the time being in force, the cancellation of the recognition of a representative union shall not relieve that union or any member thereof from any penalty or liability incurred under this Act prior to such cancellation.

21. Periodical returns to be submitted to Registrar - Every representative union shall submit to the Registrar on such dates and in such manner as may be prescribed, periodical returns of its membership.

22. Appeal to Industrial Court from order of Registrar cancelling recognition - (1) Any party to a proceeding before the Registrar may, within thirty days from the date of the communication of the order passed by the Registrar under this Chapter, appeal against such order to the Industrial Court.

Provided that the Industrial Court may, for sufficient reason, admit any appeal made after the expiry of such period.

(2) The Industrial Court may admit an appeal under sub-section (1) if on a perusal of the memorandum of appeal and the decision appealed against it finds that the decision is contrary to law or is otherwise erroneous.

(3) The Industrial Court in appeal may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the orders passed by the Industrial Court shall be sent to the Registrar.

23. Legal aid to approved unions at Government expenses in important proceedings - (1) An approved union entitled to appeal under this Act -

- (a) before a Labour Court in a proceeding for determining whether a strike, lock-outs, stoppage, closure or change is illegal; or
- (b) before the Industrial Court in a proceeding involving in the opinion of the Court an important question of law or fact;

may apply to the Industrial Court for the grant of legal aid at the expense of the State Government.

(2) Where an approved union is a party to any case arising out of proceedings under this Act, before the High Court or the Supreme Court, it may apply to the Industrial Court for the grant of legal aid at the expense of the State Government for purposes of such case.

(3) The Industrial Court may, after obtaining a report from the Registrar on the financial condition of the union, refuse the legal aid or grant it in accordance with rules framed under this Act.

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CHAPTER IV

Representatives of employers and employees and appearance on their behalf

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26. Appearance on behalf of employees - Save as provided in section 26, no employee shall be allowed to appear or act in any proceeding under this Act except through the representative of the employees.

27. Representation of employees - The following shall be entitled to act and appear in the order of preference specified below as the representative of employees in an industry in any local area:-

- (i) a representative union for such industry;
- (ii) any union of which the employee of such industry is a member;
- (iii) Labour Officer;

Provided that where the Labour Officer is the representative of employees he shall not enter into any agreement under section 33 or settlement under section 43 on their behalf unless the terms of such agreement or settlement, as the case may be, are accepted by them in the prescribed manner:

PROVISIONS REGARDING REGISTRATION OF REPRESENTATIVE
UNIONS IN THE INDUSTRIAL DISPUTES (RAJASTHAN
AMENDMENT) ACT, 1958

CHAPTER II B

Registration of Unions

9C. Maintenance of register - it shall be the duty of the Registrar to maintain in such form as may be prescribed a register of unions registered by him under the provisions of this Act.

9D. Application for registration - Any union which has for the whole of the period of three months next preceding the date of its so applying under this section a membership of not less than fifteen per cent of the total number of workmen employed in a unit of an industry may apply in the prescribed form to the Registrar for registration as a representative union.

9E. Registration of union - On receipt of an application from a union for registration under section 9D and on payment of the fee prescribed, the Registrar shall, if, after holding such inquiry as he deems fit, he comes to the conclusion that the conditions requisite for registration specified in the said section are satisfied and that the union is not otherwise disqualified for registration, enter the name of the union in the appropriate register maintained under section 9 C and issue a certificate of registration in such form as may be prescribed;

Provided that -

- (i) where two or more unions fulfilling the conditions necessary for registration under this Act apply for registration in respect of the same unit of an industry, the union having the largest membership of employees employed in the unit of the industry shall be registered ; and
- (ii) the Registrar shall not register any union if he is satisfied that the application for its registration is not made bona fide in the interest of the workmen but is made in the interest of the employers to the prejudice of the interest of the workmen.

9F. Cancellation of registration - The Registrar shall cancel the registration of a union -

(a) if, after holding such inquiry, if any, as he deems fit he is satisfied -

(i) That it was registered under mistake, misrepresentation of fraud; or

(ii) that the membership of the union has for a continuous period of three months fallen below the minimum required under section 9D for its registration;

Provided that where a strike or a closure not being an illegal strike or closure under this Act in a unit of industry involving more than one-third of the workmen in the unit of the industry has extended to a period exceeding fourteen days in any calendar month such month shall be excluded in computing the said period of three months;

Provided further that the registration of a union shall not be cancelled under the provisions of this sub-clause unless its membership at the time of the cancellation is less than such minimum; or

(iii) that the registered union is being conducted not bona fide in the interests of workmen but in the interests of employers to the prejudice of the interests of workmen; or

(iv) that it has instigated, aided or assisted the commencement or continuance of an illegal strike;

(b) if its registration under the Indian Trade Unions Act, 1926 (Central Act XVI of 1926) is cancelled.

9G. Registration of another union in place of existing registered unions - (1) if at any time any union (hereinafter in this section referred to as "applicant union") makes an application to the Registrar for being registered in place of the union (hereinafter in this section referred to as "representative union") for a unit of an industry on the ground that it has a larger membership of workmen employed in such unit of the industry, the Registrar shall call upon the representative union by a notice in writing to show cause within one month of the receipt of such notice why the applicant union should not be registered in its place. An application made under this sub-section shall be accompanied by such fee as may be prescribed.

(2) The Registrar shall forward to the Labour Commissioner of the State Government a copy of the said application and notice.

(3) If, on the expiry of the period of notice under sub-section (1) and after holding such inquiry as he deems fit, the Registrar comes to the conclusion that the applicant union complies with the conditions necessary for registration specified in section 9D and that its membership was during the whole of the period of three months immediately preceding the date of the application under this section larger than the membership of the representative union, he shall, subject to the provisions of section 9D, register the applicant union in place of the representative union.

(4) Every application made under this section shall be published in the prescribed manner not less than 14 days before the expiry of the period of notice under sub-section (1).

9H. Application for re-registration - (1) Any union the registration of which has been cancelled on the ground that it was registered under mistake or on the ground specified in sub-clause (ii) of clause (a) of section 9F may, at any time after three months from the date of such cancellation and on payment of such fees as may be prescribed, apply for re-registration. The provisions of sections 9D and 9E shall apply in respect of such application.

(2) A union the registration of which has been cancelled on any other ground shall, not save with the permission of the State Government, be entitled to apply for re-registration.

9I. Appeal to Industrial Tribunal from order of Registrar - (1) Any party to a proceeding before the Registrar may, within thirty days from the date of an order passed by the Registrar under this Chapter, appeal against such order to the Industrial Tribunal.

Provided that the Industrial Tribunal may, for sufficient reason, admit any appeal made after the expiry of such period.

(2) The Industrial Tribunal may admit an appeal under sub-section (1) if, on a perusal of the memorandum of appeal and the decision appealed against, it finds that the decision is contrary to law or otherwise erroneous.

(3) The Industrial Tribunal in appeal, may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the orders passed by the Industrial Tribunal, shall be sent to the Registrar.

APPENDIX VII

BIHAR CENTRAL (STANDING) LABOUR ADVISORY
BOARD'S RESOLUTION DATED MARCH 21, 1968
REGARDING RECOGNITION OF UNIONS

RESOLUTION

The following principles should be followed in dealing with the question of rival trade unions and their recognition:-

(1) Where there is only one registered union in an Industry or establishment, that union must be recognised by the employer.

(2) Status quo should be maintained in the case of the unions which are at present registered and recognised unless their registration is cancelled by the Registrar of Trade Unions, in which case the recognition should be withdrawn.

(3) A rival union can claim recognition only after it has functioned for at least one year at the particular establishment from the date of its registration under the Indian Trade Unions Act, 1926.

(4) The employer should deal with all questions of general interest to the workmen with the recognised union only provided that the employer shall not enter into any agreement with the recognised union about specific grievances of individual character of workmen who are not members of such registered unions as are not recognised.

"Provided that a registered union which is not recognised may raise before the State Implementation and Evaluation Committee any question about:-

- (a) breach of Code of Discipline;
- (b) breach of any award of agreement;
- (c) violation of this Resolution;
- (d) question of the Implementation and recommendations of the Wage Boards."

(5) Cases of individual workmen, having no general application to other can be brought up before an employer by a registered union of which the workman is a member even though that union is not recognised and the employer shall negotiate with such registered trade union; in no case, however, will the employer enter into an agreement on the matters of general interest with a union which is not recognised.

(6) When there is a dispute about the representative charter of unions for the purposes of recognition the dispute shall be referred to an Independent Board consisting of one representative each of A.I.T.U.C., I.N.T.U.C., H.M.S. and U.T.U.C. on representative of industries in the private sector and one representative of industries in the public sector and the President of Bihar Chamber of Commerce, ex-officio, the Secretary to Government of Bihar, Department of Labour and Employment and the Commissioner of Labour, Bihar, who will act as Convener and Member-Secretary of the Board.

The aforesaid Board will try to determine as expeditiously as possible the representative character in accordance with the rules and procedures to be formulated by the said Board in advance for disposal of the matters referred to the voting by secret ballot should be taken to determine the representative character of the rival unions, it may proceed to take the vote in accordance with the procedure prescribed by it notwithstanding any disagreement or non-participation of any of the parties to the dispute.

(7) Recognition granted to a union as a result to voting in accordance with the procedure laid down in paragraph 6 of this resolution should not be disturbed for two years.

(8) All disputes arising out of internal rivalry within any union shall be referred for decision to the Central Organisation to which the union in question is affiliated and the said central organisation shall decide the matter within a period of two months from the date of reference of the dispute to it.

(9) Disputes arising out of rivalry within the trade union, which is not affiliated to any of the four central organisations and such disputes arising out of rivalry within a trade union which is not decided by a central labour organisation to which it is referred within a period of two months shall be decided by the aforesaid Independent Board in accordance with the rules and procedures laid down by the Board for the purpose.

(10) For withdrawing recognition of a union, the employers shall obtain the prior approval of the State Implementation and Evaluation Committee whose decision in the matter shall be final.

Government trust that the employers and the employees will lend cooperation in solving the dispute regarding rival trade unions in the manner indicated above.

The Government Resolution No. III/DI-26014/59L-4650 dated the 11th March, 1939 is hereby repealed.

PROCEDURE FRAMED BY THE INDEPENDENT
BOARD FOR ASCERTAINING THE REPRESENTATIVE
CHARACTER OF TRADE UNIONS FOR THE PURPOSE
OF RECOGNITION IN THE STATE OF BIHAR.

Whenever there are claims for recognition by trade unions which have been in existence for at least one year from the date of their registration, the Labour Commissioner will get an enquiry made about the following facts:-

- (a) The names of the union functioning in the establishment together with their number and date of registration;
- (b) Whether any of the unions functioning in the establishment was responsible for an established breach of the Code during the past two years (by an established breach is meant a breach reported and on enquiry established by the implementation machinery of the State);
- (c) The date when the existing recognised union was given recognition by the management.

The Labour Commissioner will complete his enquiry within a period of 30 days from the receipt of the claim and will place his result of the enquiry before the Independent Board. After ascertaining the above facts the Independent Board may direct verification of the claim. In doing so it may direct that particular union which has been responsible for the breach of the Code should not be allowed to participate in the enquiry. All the registered trade unions in the establishment concerned shall then be informed of the claim/claims and shall be requested to send, if they so like, within 15 days of the receipt of the letter, nomination for participating in the verification. If a registered trade union does not file its nomination within 15 days, it will be given another chance to file nomination within 15 days from the date of issue of the letter. If a union does not file its nomination even after the second chance then it will be debarred from contesting the verification. If there are two registered trade unions and one is thus debarred, the verification shall proceed *ex parte*.

2. After receipt of the nomination papers from the contestant unions, the Verification Officer shall ask, by registered post with acknowledgement due, all such

registered trade unions to send the list of their members as on the 31st December of the year immediately preceding the date of the issue of the notice, within a period of 30 days from the date of receipt of the letter. If any union fails to send the membership list within the time prescribed or requests for time, it would be given another chance to send its membership list within a period of 15 days from the date of the receipt of the second letter. In exceptional circumstances, another chance may be given by the Labour Commissioner under intimation to the Board. If any union fails to submit the membership list, within the time allowed, the verification will proceed in the absence of the defaulting union. If the claimant union does not submit the membership list even after the second chance, the claim may be rejected and the defaulting claimant union may be debarred from making any such claim for a period of one year. For the purpose of verification, the Verification Officer shall examine the Membership Registers, Receipt Counterfoils and Statement of Accounts as in paragraph 4 below and shall also conduct personal interrogation of the union members in the manner prescribed in paragraph 7 below.

3. Verification by personal interrogation shall normally be the first step taken in resolving any prima facie dispute regarding recognition. The result of verification by personal interrogation shall be brought upto the Independent Board for consideration and decision and the result shall be communicated to the parties by the Board.

4. There shall be a hundred percent check of the list of members with reference to the Membership Registers and the union subscription receipt counterfoils of the respective unions as on the 31st December of the year immediately preceding the date of issue of first notice for membership list. Members who have not paid membership dues for the period ending on the said 31st December, shall be excluded for the purpose of verification. This checking will be done in the presence of the office bearers of the contesting unions, but if any union is not represented inspite of adequate chance and opportunity given, the checking will proceed ex parte. If a union objects to the elimination of any member from its membership registers, it will have to give valid reasons for such an objection. The Verification Officer will ensure that only those workers are included in the membership lists of the unions who are on the rolls of the management on the 31st December of the year immediately preceding the date of first notice for membership list from the unions. If the management does not supply list of employees within a reasonable time, then the verification

roll will be prepared from the membership lists of unions only. For this, Labour Commissioner shall be the final authority to decide whether reasonable time has been allowed to the management to submit list of its employees.

5. The verification Officer will thereafter intimate, in writing, to the unions concerned that the verified lists of their respective members are ready for inspection by the union representatives at an appointed time and place. The unions will also at the same time be informed that after inspection of the verified list of members of the rival union(s) they should send, in writing, their specific objections, if any to the entries in these lists, within 10 days (or a longer period if the number of objections is likely to exceed 10,000 on the basis of one additional day for every 2,000 objections over and above 10,000) of the date of inspection. It should be made clear to the unions that general and vague objections like inflated membership, etc., will not be considered; the objections should give names of persons whose membership of a union is objected to and the to make notes from the verified lists shown to them in the presence of the verification officer. They will, however, not be allowed to take any of the lists nor a copy of the lists will be given to them.

The verification roll of the members shall contain all the names in the verified membership lists of all the contestant unions.

6. The impartiality of the Verification Officer shall be ensured.

7. When the verified roll contains names upto 1000 members, each member shall be called for personal interrogation.

When the number of members on the verified roll exceeds 1000, but does not exceed 2000, personal interrogation will be conducted in respect of 1000 members plus 50% of the number on the roll exceeding 1000.

When the number on the verified roll exceeds 2000 but does not exceed 5000, personal interrogation will be conducted in respect of 1500 members plus 25% of the number exceeding 2000.

When the number on the roll exceeds 5000 then personal interrogation will be conducted in respect of 2250 members plus 10% of the number exceeding 5000.

Provided that the correct identity of the persons offering for interrogation will be established before they are allowed to enter the room in which the interrogation is conducted.

8. In case the Board decides on the receipt of the report of the Verification Officer to have voting by secret ballot, the voting shall be conducted by a Presiding Officer, duly authorised by the Board in this behalf at some convenient place on a date, time and place communicated to the contesting unions and the management 15 days in advance of the date of voting. A copy of the verified roll will be furnished to the parties at least 15 days in advance of the date of voting. Ballot boxes used in the General Elections shall be utilised for casting votes. Before the voting starts, the ballot boxes shall be sealed according to the rules and procedure for the General Elections. The contesting unions shall be required to appoint two polling agents each and inform the Returning Officer of such appointment in writing before the poll starts. The duties of the polling agents shall be to challenge the bogus voters, if any, and to sign the paper seal kept inside the sealed box.

The polling agents shall also represent their unions at the time of counting of votes and shall be required to sign on behalf of the unions the paper on which the result of voting would be recorded by the Presiding Officer. The ballot papers would be printed in the same manner as adopted in the General Elections. The name of each contesting union in Hindi with a distinct symbol allotted to it would be printed on the ballot paper. Each worker whose name is entered in the voters list shall be required to mark X with a rubber stamp on the symbol of the union it wants to vote for or within the space allotted to the union on the ballot paper. Each union shall be informed of the symbol allotted to it 7 days before the date of polling. As soon as the polling is over, the ballot boxes would be opened in the presence of the polling agents of the contestant unions and the Presiding Officer for the counting of votes and the result of the counting would be recorded on a sheet of paper which shall be signed by the Presiding Officer and the polling agents of each contestant union. Provided that, in case it is not possible to start the counting soon after the completion of the poll, the Presiding Officer may postpone the counting to the following day after making himself sure of the proper custody and safety of the ballot boxes. If the polling agent of any contestant unions refuses to sign the result sheet, the Presiding Officer shall make a note of it on the sheet and the union whose polling agent refuses to sign the result sheet shall be debarred to make any appeal to the Board.

9. The following categories of workers shall be considered for the purposes of verification, and shall also be entitled to vote in a secret ballot, provided they are members of any

of the contestant unions and provided they have paid the union dues in full for the period ending 31st December immediately preceding the date of reckoning;

- (a) Permanent employees including seasonal employees in seasonal factories, and
- (b) All other categories of employees on the rolls of the Company who have completed not less than 1 year of continuous service as defined in Section 2(b) of the Industrial Disputes Act, 1947.

Any casual, temporary or substitute employees, employed in the place of a discharged employee, while the dispute regarding his discharge is pending settlement or disposal according to the provisions of the law shall not be entitled to vote; but discharged, dismissed or retrenched employees, who continue to be workmen as defined in Section 2(s) of the Industrial Disputes Act, 1947, shall be entitled to vote.

NOTE:-

- (a) Apprentices, Trainees, Learners on the roll of the Company shall be excluded from voting.
- (b) Workers engaged by contractors and not on the rolls of the Company shall also be excluded from voting.

10. If there is no recognised union in an establishment, the union polling the highest number of votes shall be declared as entitled to recognition. An existing recognised union shall, however, be dislodged from this status by another union only when the latter union gets 75% or more of the total votes polled.

Provided that a union shall not be entitled to participate in verification and secret ballot nor shall it be entitled to recognition unless it or its central organisation has agreed in writing to abide by the Inter-Union Code of Conduct and Code of Discipline in Industry.

11. Any union not satisfied with the verification including personal interrogation, or voting by secret ballot, may appeal to the Board within 7 days from the conclusion of personal interrogation or voting, as the case may be. The decision of the Board on all matters concerning verification, voting by secret ballot and recognition shall be final.

of the company's business and the fact that the company has been operating for many years.

The company is a public company and is listed on the New York Stock Exchange.

The company's business is to manufacture and sell various types of machinery and equipment.

The company's products are sold throughout the United States and in many foreign countries.

The company's financial statements are audited by independent accountants.

The company's management is composed of experienced business executives.

The company's stock is owned by many thousands of investors.

The company's business is growing rapidly and it is expected to continue to grow in the future.

The company's management is confident that the company will continue to be successful in the future.