

K-520 ✓

NATIONAL COMMISSION ON LABOUR

Ref.No.MP-VI.148 - Madhya Pradesh Trade Union Congress,  
(State Committee of AITUC)  
7, Jail Road No.2, INDORE-2 (M.P)

<u>Sl. No.</u>	<u>Page No.</u>	<u>Points for Elucidation</u>
1	1-3	If the present verification procedure is insulated against delays and favouritism by providing an independent machinery for verification, will you have any objection?
2	3	Are the proposals on ballot of Trade Unions for recognition as given by you administratively feasible?
3	8	Do you mean to suggest that collective bargaining in its pure and simple form i.e. in case the parties do not arrive at agreements the employer should be free to lock-out the factory and the workers to strike if they decide to do so?

59

NCL Ref No. MP-VI.148

MEMORANDUM TO THE NATIONAL COMMISSION ON LABOUR

Submitted by,

Madhya Pradesh Trade Union Congress,  
(State Committee of AITUC )  
7, Jail Road No.2, INDORE-2 (M.P.)

This memorandum is being submitted on behalf of the Madhya Pradesh State Committee of AITUC which represents all the unions affiliated to the AITUC in this State.

Only a few points have been discussed in our memorandum. On all other matters, including those contained in the questionnaire issued by the National Commission on Labour, the State Committee as well as all the affiliated unions endorse the submissions made by the AITUC centrally.

In our view the two most crucial questions which affect industrial relations and the growth and proper functioning of trade unions are the questions of recognition of trade unions and collective bargaining.

RECOGNITION OF UNIONS

The Madhya Pradesh State Committee of AITUC is of the considered view that recognition of unions should be based on a free and secret ballot of the workers. Trade Unions represent the workers and act as their agents or representatives in matters which affect the vital interests of all workers in the mill/industry/area and it is only fit and proper that the selection of who will represent the particular workers should be left to the democratically expressed will of the workers themselves.

Industrial relations pose a serious problem in Madhya Pradesh State. It is not enough to provide for to resolve industrial disputes by consent Government intervention after industrial peace has been disturbed. Correct approach is to provide adequate machinery and forum for speedy and fair settlement of disputes before they disrupt industrial life.

In the country as a whole, industrial relations are governed by Industrial Disputes Act, 1947. It applies to whole of India. It ensures to every Trade Union the right to represent its members in all proceedings including consideration, agreements and arbitrations. This is guaranteed by Section 36(1) of the Act.

The Madhya Pradesh Government has, however, chosen to enact its own industrial relations Act called the Madhya Pradesh Industrial Relations Act, 1960. It is on the lines of the Bombay Industrial Relations Act which applies to Maharashtra and Gujarat. The main departure enacted by this law (M.P.I.R.A.) from the Industrial Disputes Act, consists in the scheme of the Representative Union. The Representative Union is determined on the basis of the membership. The minimum requirement of membership for representative union is 25% of the total employees in the concerned industry in a district. Such a representative union is given the sole right to negotiate, enter into agreement or appear before Industrial Court, Tribunals etc. on all general issues affecting the service conditions of the employees.

The MPIRA Act is based on verification of membership records by the State Labour Department. This department has always been and will always be in the complete control of the State Government and is bound to carry out its policies and directives. In view of the fact that State Governments have been and still are in some places run by the Congress party, the policy has been to grant recognition to unions belonging only to INTUC. Even where the overwhelming majority of workers do not belong to the INTUC union, verification is carried out by the Labour Department with the purpose of declaring INTUC to be the majority union thus conferring recognition on it against the will of the workers. Many mill owners, are interested in supporting the

INTUC unions for a variety of reasons and in some cases they help in inflating the membership rolls by various methods.

Hence the MPTUC does not agree to recognition being made consequent upon a check-up of membership register by the labour department.

It is undesirable on other grounds also that the State machinery should determine the representative character of a union. Verification is only a convenient smoke-screen to hide the gross interference of the Government in foisting a union of its choice on the workers.

The only correct, lasting and democratic solution is to let the workers choose their own representative Union through secret ballot. All central trade union organisations except INTUC support this proposal. A section of employers also is in its favour. But the INTUC, the Congress Governments and some employers oppose this and the reason for their opposition are not far to seek.

However, workers in various places have resisted and will continue to resist this most blatant, anti-democratic method of selecting a union as the representative union and this has been a cause of several strikes and continued unrest.

In fact there can be no valid argument against the proposal to base recognition on the verdict of a secret vote of the workers who are to be represented. Fear of violence, backwardness of the workers, the 'principle' of quality Vs mere numbers are all outmoded and ill founded excuses. There is no violence worth the name in general elections or even among workers where works committees, housing committees, canteen committees etc. are elected. As for backwardness, the worker is far more enlightened than many other section of the community, which have the right to elect representatives for local governments, State Assemblies and Parliament.

In the State of Madhya Pradesh, the MPIRA Act has been operated to such an ridiculous extent that the former Congress Government boss, applied the scheme of representative union to other matters of T.U. life than Industrial relations and collective bargaining.

Representation on the committees of Social Welfare measures such as ESIC Regional Board, Housing Board, Housing Allotment in the Industrial Housing Colonies constructed by employer or Govt. Local Selection Committees of Workers' Education was accorded to INTUC, as monopoly representative union to the exclusion of other central T.U. organization with only certain exception, where it suited congress govt., and the labour deptt. headed by INTUC bosses.

Even with the formation of non-congress govt. in the state, the old practice, more or less continues, the spacious argument advanced by the then congress minister was that only representative union under the scheme of MPIRA Act has right for sole representation on such committees to implement social welfare measures. Huge amounts were given to such representative unions in the name of Labour Welfare only to use such power to subdue the workers and bind them hand and foot to this monopoly instrument of ruling class and congress govt.

The M.P.T.U.C. has raised its voice of protest against such grossly unjust interpretation of the industrial relations act. But with the intervention of the union labour ministry certain improvement in the matter of representation to central T.U. organization took place. MPTUC was given representation on Labour Advisory Board, E and I Committee, State Committee of employment and training, EPF etc.

However, even now, MPTUC is not accorded representation on ESIC and Housing Board both regionally and locally and on the selection committee of workers education committee locally.

The basis of majority membership has proved to be ineffective. This is so, because, a pro-employer union is able to get all assistance from the employer, including terrorisation and discrimination against other unions. It is widely prevalent practice in our own state that membership dues of the representative unions are collected and deducted directly by the employers by the various dubious ways, Coercion by the supervisory staff is the daily occurrence. Permission for collection of membership dues at the place of work is left on the sweet will of the employers by law. It hardly needs to be mentioned that what sort of unions the employer would permit. If, after all these handicaps, a union challenges the representative union then the law provides for a long-drawn inquiry by the Registrar of Trade Unions. During pendency of this inquiry the representative union continues as such and is able to beat down the workers by entering into any agreement with the employers. There is only one case of a successful challenge during the last 19 years in our state. The enquiry took 2½ years in a factory employing only 200 workers. How much time it would require to complete an inquiry in an industry such as Heavy Electricals Ltd., Bilai or textiles in Indore employing nearly 20 thousand workers is anybody's guess. It is, therefore, suggested that a secret ballot of all employees of a given industry or factory held every two years could provide a free, fair and steady way to determine the representative union.

The Act is open to abuse and has actually been abused to foster favourite unions as representative unions. This throttles all legitimate trade union activities of all other trade unions. It leaves no scope for other unions to legally raise issues and seek their settlement through legal machinery. Once an agreement is entered into by the representative union it is binding on all the employees whether members or non-

non-members. Such an agreement is not open to any legal challenge even if all the employees desire a change.

Thus, when redress through legal means is barred, other trade unions and employees are left with no other alternative but to promote effective agitations and strikes etc. Such was the case at Nagda, HFL Bhopal, Rajnandgaon and Indore etc. in recent days. This disrupts Industrial relations and it is note-worthy that even when strikes do not erupt, the absence of any legal machinery for redressal of grievances solves no problem. Grievances accumulate leading to continuous restiveness and discontent. It will be readily admitted that good industrial relations are not merely the absence of strike. In this system of monopoly representative union, there is constant tension in industrial relations which occasionally erupts in volcanic strikes.

Such a monopoly representative union has also been found to throttle internal democracy even in the representative union leading to deterioration of such representative unions into gangster unions often resulting in deadlock in the very functioning of that union.

The MPTUC therefore, urges upon the Commission to uphold the democratic right of the worker to select its representative Trade Union through SECRET BALLOT and suggests following proposals :-

THE PROPOSALS ON BALLOT OF TRADE UNIONS FOR RECOGNITION  
IN

1. (i) BALLOT : Ballot should be held by the L.C. in consultation with and cooperation of all registered trade unions. It should normally be held simultaneously in all the units.

(ii) L.C. or his nominees from his department should perform the functions of the Returning Officer and representatives of registered unions shall be treated as parties to the election.

(iii) In conducting the ballot and fixing the programmes and procedure all the parties be consulted.

## 2. THE REPRESENTATIVE UNION AND OTHER UNIONS

(i) The ballot will be open to all the workers in the plant/industry. Any union which in the secret ballot secures more than 50% of the votes cast will have the sole right of collective bargaining on all issues of the workers in the plant/industry.

(ii) This union should offer to the other union seats on its managing bodies in proportion to their votes, if the latter are willing to merge themselves in the balloted union, the conditions for which should be decided by mutual consultation.

(iii) In case the unions who have secured less than 50% votes do not agree to merge and form a single united union they should not be given any of the rights exerciseable by the balloted recognized union.

(iv) The majority union will have to function democratically, for which provision shall be made in the constitution in the matter of holding its annual conferences, election of its leading-bodies, maintenances of membership rolls and dispersal of funds and decisions on policy matters. The union shall provide in its constitution for discussion and ratification of agreements with the employers by the Executive of the Union and the General Body of workers, where found necessary.

(v) A union which wins the next place to the balloted in the votes cast and has over 50% of the votes in a particular department of a big unit or complex, such a union will have the right to represent the individual grievances of its members only in that department and which do not touch the general demands of the workers as a whole.



(vi) The ballot for recognition will be held every 2 years.

(vii) The representative union will be entitled to (a) collection of union dues at work place; (b) holding meeting on the premises of the company, where such place is available and exhibit union notices on the premises; (d) the time spent by the functionaries of the union in negotiations and settlement of issues will be treated as on duty.

### COLLECTIVE BARGAINING

This brings us to the second major problem collective bargaining. In the position existing today collective bargaining is hampered rather than promoted.

The first obstacle is the absence of a union recognised as a bargaining agent. Even where such a union exists nominally, the procedure adopted, as pointed out above, negates the reality and foists a union on workers which does not really represent them. Hence a democratically elected union, nominated by the workers themselves without interference by the Government or employers., is the first necessity if collective bargaining is to be promoted.

Collective bargaining really means that the workers as a class bargains with their employers regarding conditions of service. In such a process interference by Government is a hinderance. Hence the present machinery set up under the Industrial Disputes Act, MFIR, etc. are harmful to this process. Conciliation by Government officials, compulsory adjudication or arbitration are a negation of collective bargaining.

In fact the entire concept of conciliation, adjudication etc. is a class concept by which the bourgeoisie has sought to emasculate the trade union movement, to keep it within the confines of Government offices and court rooms.

The history of the right to strike shows how more and

more curbs have been placed on it—first by making a distinction between legal and illegal strikes; then by bifurcating legal strikes into 'justified' strikes and 'unjustified' strikes, and lastly through the restrictions imposed by the Code of Discipline.

The right to strike is fundamental. It is the only sanction behind collective bargaining. To the extent that this right is fettered and curbed, collective bargaining suffers.

Hence the scheme of industrial relations should guarantee;

- (a) a union compulsorily recognised as a result of secret ballot of workers;
- (b) basic trade union and democratic rights of functioning to such a recognised union;
- (c) right to strike and incidental rights like peaceful picketing.

What is necessary is the codification of the various acts which confer rights on workers like Minimum Wages Act, Payment of Wages Act, Workmen's Compensation Act, Factory Act, Trade Unions Act, certain sections of Industrial Disputes Act, P.F. Act, ESI Act, Standing Orders Act etc. Stringent penalties should be provided for infringement of these acts. Special courts should be set up to adjudicate on matters pertaining to these where the parties can directly take the matter. Cases relating to termination of service through ~~any method~~ any method may also be made justiciable in these courts through a direct complaint lodged by the party concerned. All other matters must be left for collective bargaining between the parties.

There is no principle involved in this question and the issue is strictly related to conditions obtaining in our country and the historical growth of the TU movement. As conditions change, the movement will adopt the form necessary to its growth.

WAGES - D.A. - BONUS

Wages at the minimum level represents the cost of unskilled physical labour to the worker. That is to say, minimum wages must be related to cost of living at a given standard without imparting into its determination any extraneous consideration like capacity to pay, productivity etc.

The minimum level will differ from time to time and country to country. In our country, at the present time, the agreed norm may be taken to be the definition of its contents in physical terms given by the 15th Indian Labour Conference.

Once an equation between money wages and real wages in these terms has been arrived at, at the minimum level for unskilled work, 100 per cent neutralisation for any rise in cost of living must be provided to prevent any erosion of real wage. In other words, 100 per cent neutralisation merely freezes the real wage at the given level.

Hence any argument, however learned and profound, about why 100 per cent neutralisation need not be given is merely a plea for wage-cut and if allowed, in practice, over any length of time in a period of sharply rising prices will drive the real wage much below the subsistence level.

Once the minimum wage has been fixed on the basis of parity between the money wage and the real content, suitable differentials should be fixed for semi-skilled, skilled, highly-skilled, supervisory jobs. Clerical jobs, ~~xxx~~ and managerial jobs should be brought into the scheme of differentials. In a poor country like India, where argument is still raging around the feasibility of giving a subsistence wage in the name of industrial survival, the present imbalance between managerial and staff salaries and wages is intolerable.

Our experience of the implementation of minimum wages act is very sad, not only the employers engage themselves against the workers in time consuming litigation but the Govt. also sleeps over for a long period of time in appointing minimum wage committees and MW Advisory Board.

In the scheme of the MW Act the advisory Board is made ineffective as regard the scrutiny and examination of minimum wages fixed by the committees. This drawback in the said act must be removed at the earliest.

Moreover, the govt. of the state sleeps over the MW Committee reports, even when, these are unanimous report. M.P. Govt. has yet to take decision on such reports, which are lying with it for over a year and half. Where the Govt. is the employer and MW Committee's recommendations are to be implemented, and financial considerations are brought in to postpone decision indefinitely.

The periodical revision or fixation of MW by the advisory board must be provided in the act itself and must be made obligatory on the Govt. concerned in order to project the content of MW in these rapidly changing conditions and unprecedented price rise.

The minimum wage for unskilled must be a national wage. Differentials will be in the shape of proportional ranges, leaving flexibility for each industry. There is no case for regional disparities. But the D... should be linked to the cost of living index of the area to allow regional differentiation.

Having fixed the differentials, every rise in prices must be offset 100%. Otherwise, differentials will be disturbed apart from every other consequence.

Over and above the minimum level, wages and D... should be left to collective bargaining.

The question of incentive bonus or production bonus

is best left to collective bargaining.

In a system where workers are yet seeking to achieve a minimum wage, bonus occupies an important place. It represents an annual saving necessary to wipe out to some extent, the debts incurred during the year and if possible, provide a small lumpsum for annual expenses of a capital nature like purchase of blanket, warm clothes etc.

The present Payment of Bonus Act which incorporates the view point of employers to the exclusion of the unanimous opinion of all others, including one representative of employers, is unacceptable. It should be replaced by a new Act which should be based on the new formula put forward by trade unions, i.e. LIT formula without rehabilitation and 50% of the surplus to be given to workers after taking into account the benefits of the tax rebata.

Dated:

Submitted by,

1. DIWAKAR  
Vice-President.
2. Homi F. Daji,  
General Secretary,
3. G.P. Shrivastava,  
Secretary.