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**Topic** - Trade Union Act 1926

**Sub-Topic** - Privileges and Immunities of a Registered trade Union

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## **Privileges and Immunities of a Registered trade Union**

### **I. Privileges and immunities of a Registered trade Union —**

S.17 provides that "no office-bearer or member of a registered Trade Union shall be liable to punishment under or sub section (2) of 120-B of the Indian Penal Code, 1860, in respect of any agreement made between the members for the purpose of furthering any such object of the trade Union as is specified U/S. 15, unless the agreement is an agreement to commit an offence.

In view of this provision no office-bearer or member or member of a registered Trade Union shall be liable for criminal conspiracy in respect of any agreement between the members for the purpose of furthering any such object which are specifically mentioned u/s 15 of the Act on which the general funds of the Trade Union may be lawfully spent. There is only one restriction that the agreements to commit an offence are not covered under the protection provided for in the Act. S. 15 contains objects on which general funds of the Trade Union may be spent, For Example, the conduct of trade disputes, compensation to members for loss arising out of trade disputes, etc. The Trade Union may take different shapes in order to 'carry out the objects. For Example, the members of the Trade Union may assemble at one place to deliberate or resolve hold meetings and conferences and pass resolutions expressing their views on matters of employment or non-employment or terms of employment or conditions of labour, hold demonstrations and strikes in support of their demands but they cannot indulge in violent and illegal activities such as gherao.

### **2. Immunity from Civil Liability —**

The Trade Union activities not only amount to criminal conspiracies in certain cases but they may amount to interference with the business of the employer when the Trade Union or any, office bearer or members thereof act in particular way in contemplation or furtherance of a trade dispute. The act done by the trade unionists induces some other person to break a contract of employment, or it is interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills. In all such cases they may be held liable for damages under general law of the land. But 'the immunity has been afforded to them in all such cases under the provision of the Trade Unions Act.

**S. 18** provides that no suit or other legal proceedings shall be maintainable in any Civil Court against any Registered Trade Union or any office-bearer or member thereof In respect of any act done in contemplation or furtherance of a trade dispute to which a member of a trade union is party on the ground only that such act induces some other person to break a contract of employment, or that it is interference with the trade business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

The analysis of this provision would show that no suit or other legal proceeding is maintainable in any Civil Court for any act against — 1.) any Registered Trade Union or 2.) Any office bearer, or 3.) A member of Trade Union provided such act has been done in contemplation or furtherance of a trade dispute and a member of the Trade Union is a party to that tradedispute if the ground is only that (a) such act induces some other person to break a contract of employments or (b) that it is interference with the trade, business or employment of some other person or (c) that it is interference with the right of some other person to dispose of his capital or his labour as he desires.

It has been further provided that a Registered Trade Union shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act 'done in contemplation or in furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express given by the executive of the Trade Union.

It shows that immunity from civil liability has been afforded to Registered Trade Unions. their office-bearers and their members if the union activities are done in contemplation or in furtherance of a trade dispute to which a member of the Trade Union is a party. The Trade Unions generally pressurize the members or other persons to stop their work or to break a contract or employment or service because they want better conditions of work which ultimately takes the shape of trade dispute between workmen and employers. On all these matters they resort to strikes. They interfere with the right of other persons to dispose of their capital or labour as they desire. Unless all the workers are stopped from going to work, no employer can be compelled to the rates of wages or provide better terms and conditions of work in industries. All these activities may be actionable and the persons participating in these activities may be held liable. But in all such events the Trade Unions have been given protection under the provisions of Trade Unions Act.

### **3. Privilege to Make Agreements in Restraint of Trade—**

S. 19, provides that notwithstanding anything contained in any other law for the time being in force, any agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any one of the objects of the agreement are in restraint of trade. Though agreements in restraint of trade are rendered lawful by the Trade Unions Act, a Civil Court cannot entertain

any legal proceeding instituted for breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business work, employ or be employed.

The proviso to 19 expressly, provides that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or not sell their goods, transact business, work, employ or be employed.

#### **Sources**

1. K.M Pillai, Labour and industrial laws, 1999
2. B.S. Goswami, Labour and industrial laws