

**New Labour Codes of India**  
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**Lecture 09**

**Trade Union – Definitions, Registration, Cancellation, Management of Funds**

Dear students, and so, as a continuation of our lectures and this class, we are going to specifically look into the trade union provisions. The trade union provisions, definitions, its registration process and what is the cancellation of a trade union, then management of funds and other provisions, which we are going to discuss in this particular lecture.

So, we have already said that in India, the Trade Union Act was passed in 1926. So, it was ruled for a greater period of time. So, after independence also, these provisions were amended suitably. And the same act was continuing until we repealed it with the new codes. The new codes are taking about the provisions most of which are from the old Act.

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But there are new provisions, the new provisions in the Industrial Relations Code, which we are going to see.

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**KEYWORDS**

- Trade Union
- Definitional Aspects
- Registration
- Cancellation
- Funds of a Trade Union
- Documentation requirements
- Industrial Relations

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These provisions form trade unions and explain what are the provisions for registration of a trade union. What are the prerequisites? Who can form a trade union? And who are the authorities empowered to give registration of trade unions? And what are the grounds for cancellation of such registration? Then funds what are the different kinds of funds available to the trade unions? Then, what documentation is required every year to be submitted to the authorities and also the other provisions.

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**Some Highlights of the repealed Trade Union Act, 1926**

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**Objective of The Trade Union Act, 1926**

An Act to provide for the **registration of Trade Unions** and in certain respects to define the law relating to registered Trade Unions



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So, I already said that most of the provisions of the new code are taken from the Trade Union Act. So, the old act clearly says that just providing registration of trade unions.

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**Chapter II – Registration of Trade Unions**

3. Appointment of Registrars.
4. Mode of registration.
5. Application for registration.
6. Provisions to be contained in the rules of a Trade Union.
7. Power to call for further particulars and to require alteration of name.
8. Registration.
9. Certificate of registration.
10. Cancellation of registration.
11. Appeal.
12. Registered office.
13. Incorporation of registered Trade Unions.
14. Certain Acts not to apply to registered Trade Unions.



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And this registration of Trade Unions, the provisions quickly we are not deliberately going through the old Act and we will go through the new act new code. So, there were provisions for the appointment of registers, the mode of registration, the obligation of registration, and the provisions to be contained in the rules of trade unions.

So, that means, what are the provisions to be contained in the rules of trade unions and of registration, certificate of registration, cancellation of registration, appeal and also the registered office of trade unions and incorporation and then certain exceptions applicability of several exceptions to the trade unions.

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**Chapter III – Rights and Liabilities of Registered Trade Unions**

15. Objects on which general funds may be spent.
16. Constitution of a separate fund for political purposes.
17. Criminal conspiracy in trade disputes.
18. Immunity from civil suit in certain cases.
19. Enforceability of agreements.
20. Right to inspect books of Trade Union.
21. Rights of minors to membership of Trade Unions.
- 21A. Disqualifications of office-bearers of Trade Unions.
22. Proportion of office-bearers to be connected with the industry.
23. Change of name.
24. Amalgamation of Trade Unions.
25. Notice of change of name or amalgamation.
26. Effects of change of name and of amalgamation.
27. Dissolution.
28. Returns.

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So, other provisions in the old Act we can see that specifically the funds, separate funds for political purposes, general funds for the working of the trade union, then criminal conspiracy in trade disputes, immunity from civil suits in certain cases, the enforceability of agreements and the right to inspect the books right of minors to be membership in trade unions and disqualification.

Then the change of name amalgamation of trade unions and change of name when there is amalgamation happens and also the dissolution and returns to be filed. These are the framework of all trade unions. So, when we look into the new trade union provisions in the code also we can see all these provisions and also certain additional provisions.

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**Important Provisions from the Industrial Relations Code, 2020**

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## Objective of the Industrial Relations Code, 2020

An Act to consolidate and amend the laws relating to Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes and for matters connected therewith or incidental thereto.



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So, we will directly go to the industrial relations code 2020 and today we are going to discuss the formation of trade unions and also related provisions. So, the Industrial Relations Code very clearly says that the Act is to consolidate and amend the law relating to trade unions, conditions of employment, industrial establishments, undertakings, investigation and settlement of disputes and matters connected with.

So, two parts of these Industrial Relations Code, the first one is the trade union and the second one is the industrial disputes or settlement of industrial disputes, we will see it separately.

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## "Trade Union" Defined

- Section 2(zl) defines "Trade Union"
- It means any combination,
- Whether temporary or permanent,
- Formed primarily for the purpose of regulating the relations
  - between workers and employers or
  - between workers and workers, or
  - between employers and employers, or
- For imposing restrictive conditions on the conduct of any trade or business, and
- Includes any federation of two or more Trade Unions:



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So, we can see that these particular provisions are the new provisions are reinforcing the old provisions. So, this particular provision talks about or defines what is a trade union. So, it

says, it means an inclusive definition says that it means any combination, but the temporary or permanent form primarily to regulate the relations between workers and employers, workers and workers, employers and employers. So, three categories of combinations are mentioned under this particular definition.

And also you can see that, so, imposing restrictive conditions on the conduct of any trade or business includes a federation of two or more trade unions. So, in the trade unions, the combinations between workers and employers, between workers and workers and between employers and employers, and even the federation of more trade unions, also, we will come on to the definition of the trade union.

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**"Trade Union" Defined**

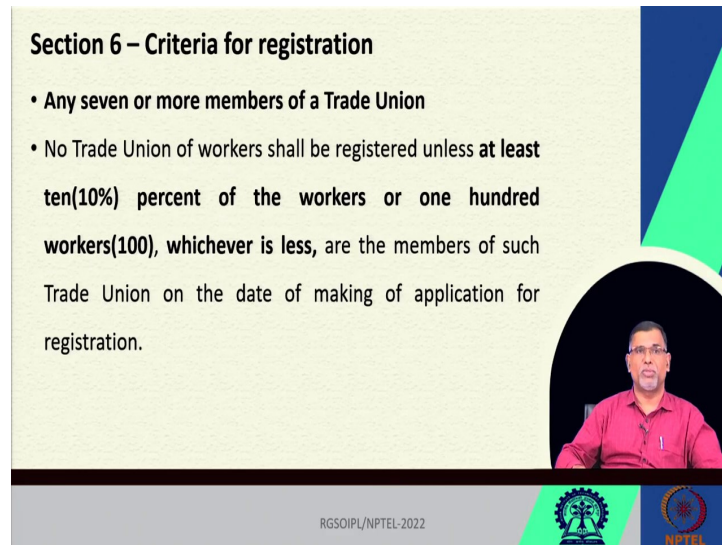
- Section 2(zm) defines "Trade Union dispute"
- It means any dispute relating to Trade Union
  - Arising **between two or more Trade Unions** or
  - **Between the members of a Trade Union** inter se;

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And, so, we can see that, yes, disputes between any one of these three categories between two or more trade unions or between members of trade unions. Which then comes up with a definition of trade disputes.

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**Section 6 – Criteria for registration**

- Any seven or more members of a Trade Union
- No Trade Union of workers shall be registered unless **at least ten(10%) percent of the workers or one hundred workers(100), whichever is less**, are the members of such Trade Union on the date of making of application for registration.

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So, what are the criteria for the registration of a trade union? So, any seven members or more, I would say that the citizens of India can form trade unions. So, at least 10 percent of the workers or 100 workers, whichever is less are members of such unions or on the date of making up such application for registration. No Trade Union shall be registered unless at least 10 percent of the workers should support that particular trade union.

Probably this particular provision is very specifically included to avoid the multiplicity of trade unions in an establishment. So, we already saw that in the last class, we saw that the Supreme Court affirmed the particular prescription of minimum support. So, this is not against Article 19 1 C, so, this law can clearly prescribe the minimum support for a particular trade union.

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**Section 7 – Provisions to be contained in Constitution or Rules of Trade Union**

- The name of the Trade Union;
- Object of the Trade Union for which it has been established;
- Either the **whole purpose** for which the General fund of such Trade Union shall be applicable or for any specific purpose for which such fund shall be applicable under this Code;

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So, the provisions contained in the constitution of a trade union. So, what is the containment of this particular trade union is the name of the trade union very important? The objective of the trade union has to be included in the constitution and the whole purpose for which the general fund is to be used. If there is any specific purpose to be used, this fund is applicable then also that has to be included in the constitution. So, we already said that there are two types of funds, which are mentioned under this code that is general fund and the political fund. We will talk about political funds more, and what it exactly means.

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**Section 7 – Provisions to be contained in Constitution or Rules of Trade Union**

- The list of the members of Trade Union
- The process of admission of any ordinary members,
- The admission of honorary or temporary members- not the workers- as are **not** permitted under section 21 – **to be office-bearers to form executive of such Trade Union;**
- Prescribed method of payment of subscription by such members and other

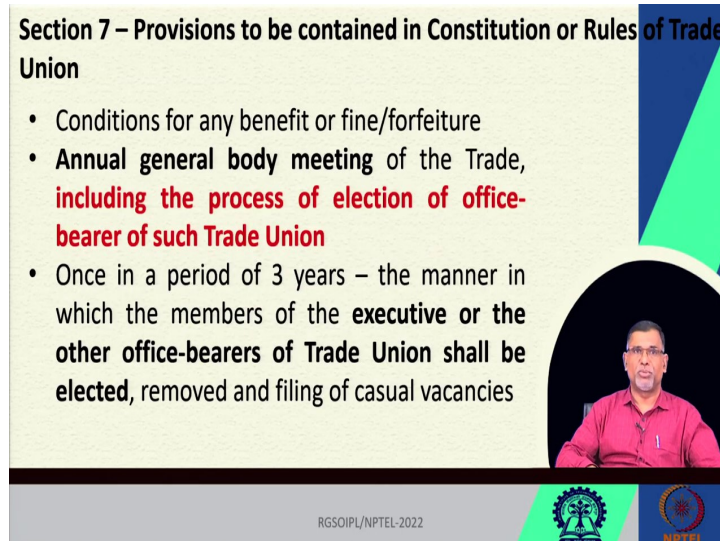
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And also the list of members to score subscribed to the trade union is to be submitted. And what is the process of admission of ordinary members or if any special members if any



special provision for including any special members or it can be honorary members, it can be temporary members or it can be special members. So, if specific mentioned about the office bearers or executives of such trade unions and also, what is the method of subscription? The method of subscription also has to be mentioned in the constitution of trade unions.

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**Section 7 – Provisions to be contained in Constitution or Rules of Trade Union**

- Conditions for any benefit or fine/forfeiture
- **Annual general body meeting** of the Trade, **including the process of election of office-bearer of such Trade Union**
- Once in a period of 3 years – the manner in which the members of the **executive or the other office-bearers of Trade Union shall be elected**, removed and filing of casual vacancies


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And the other provisions which include any kind of the, how are they are going to take decisions, how the office bearers are going to be elected in the annual general body meeting and the time of each office bearer, so, it is mentioned 3 years and the members of the executive or other office bearers to be mentioned and totally their selection or election, but also the removal and filling of casual vacancies are also to be mentioned in the constitution or rules of the trade union.


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**Section 7 – Provisions to be contained in Constitution or Rules of Trade Union**

- **Safe custody of funds and annual audit of accounts**
- Provision for inspection of such books of account by office-bearer or other members of Trade Union;
- The manner in which **rules shall be amended, varied or rescinded;**
- The prescribed manner in which Trade Union may be **dissolved.**



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When we come to other provisions of safe custody of funds and annual audit of accounts to be done every year, and the inspection of books, the inspection of books and also accounts, by the office bearers, or any member of the trade union can ask to show the account books or the records to be, health records has to be produced before the members or the other office bearers.

And there must be a provision for how and what the majority opinion required to amend the rules and regulations are also to be or rescind to be included in this particular constitution or rules of this, the trade union. And most importantly, the provisions for dissolving the Trade Union also have to be included. The provision for dissolving the Trade Union also has to be included.


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**B.C. Sharma v. M. L. Bhalla , AIR 2006 SC 3293**

- The term of the office bearer came to an end on 4/5.7.2005 ; Certain Litigations between rival groups
- **Appellants continuing in office even after expiry of term**
- It was held that, **Registrar of Trade Union appointed for holding elections of office bearers** of Uttariya Railway Mazdoor Union
- He was also appointed Administrator to take over management of Union till elections held
- Elections should be held under supervision of a **neutral person - Registrar of Trade Union, being a statutory authority, should be appointed for the aforementioned purpose.**



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So, we can see some of the court decisions, what the court says about the office bearers and relate to the trade unions. So, if an office bearer is continued to be in the office, even after the expiry of the time, so, what is the legal position? So, it was held that the court held that the register of Trade Unions appointed for holding elections of office bearers of this particular union that is a Uttariya Railway Mazdoor Union. So, we can whether the register can be appointed as an administrator to take over the management of the union till the elections.

So, once the office bearers' times expired, the court clearly said that the register of trade union is a statutory authority. The Registrar of trade union is a statutory authority and should be appointed for this neutral person. The neutral person is the registrar of trade unions can be appointed to conduct these elections. So, the elections must be conducted under the supervision of a neutral person. So the registrar of the trade unions usually conducts the elections. So, the court upheld, that the registrar can be appointed for holding the election of the office bearers.


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**Section 8 – Application for registration, alteration of names and procedure thereof:-**

- Application may be made either **electronically or otherwise**, accompanied by following documents-
  - A declaration be made by an Affidavit;
  - Copy of the rules of Trade Union
  - Copy of the resolution by the members of such Trade Union adopting such rules;
  - Copy of resolution – authorizing the applicant to make such application for registration;
  - Copy of resolution adopted by members of each Trade Unions – meeting separately for agree to constitute such federation/central organization of such Trade Unions;



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So, as I said, the court in various cases and when we look into the procedures, what are the procedures? Now, the application is to be made electronically and otherwise, so, what are the documents to be submitted for the registration of a trade union, an affidavit? So, a declaration is to be made in the form of an affidavit and copy of the rules of the trade union, the copy of the resolution of the members of the trade union who are adopting so we already said that the seven persons so authorize the application.

So, applications are to be submitted before the registrar of the trade unions, the copy of the resolution and the copy of the resolution adopted by the members of each trade union in the case of federations. So, there must be separate general body meetings for such trade unions, and there must be separate resolutions for an individual resolution to be produced for the registration of a confederation or the federal or central organizations or central unions.

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**Section 8 – Application for registration, alteration of names and procedure thereof:-**

- Registrar may call for further information and may refuse to register the same until such information has not been furnished.
- In case of where the name of proposed registered Trade Union is identical with the existing registered Trade Union - the Registrar shall require the person applying for altering the name of such proposed Trade Union and may refuse to register the same until such alteration has not been made.



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The registrar has the power to call for further information and also refuse to consult the application until such further information is furnished. So, when if the name of the proposed registered trade union is identical, to the existing trade union then the registrar can or he can the registrar shall require the person applying for such, alter the name of such proposed trade union, he can accept or he may refuse to register.

So, with same trade union is not going to be registered. So, the alteration, the registrar can ask for an alteration of the name, and then he can accept or refuse or further he can make changes to the applicant in case of identical names which already exist.


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**Pre-requisites - documents**

- Prescribed Form for the Application.
- Are the ID proof with Name, Occupations and Addresses of work of at least 7 members mentioned in the application attached?
- Filling of the Application form completely and correctly.
- The form contains the signature details of the secretary
- The form signed by the 7 members of the Trade Union.
- The copy of the rules of the Trade Union attached.



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So, the prerequisites, and documentation is required so the prescribed form. Now, the government under the new board is going to be mandatory for online applications, the ID proof of the people, the persons and also the occupation and addresses of the workers that are the minimum 7 members mentioned the applications to be attached. And they filled application form with the signatures of the secretary who was elected or selected by the 7 people.

This form is to be signed by the seven members who subscribed to the trade union and a copy of the rules of the trade union is to be attached. You already talked about the resolution of these members and then the body meetings.

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**Pre-requisites - documents**

- The registration certificate of the Trade Union attached.
- Address proof of its head office of the Trade Union mentioned in the application attached.
- The Notices of GBM to all members attached.
- The resolution copy for Cancellation of Trade Union signed by at least two third of the total number of its members attached.
- The copy of attendance register attached.

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And also the other prerequisites, documents which you can see that the registration certificates once you get registered and the certificate is issued by the registrar, then you can see that but such kind of, the trade union is registered. So, the application, and the address proof must contain the head office of the trade union.

And the notice of the GBM, the name of the people who participated in the GBM and their signatures, and the resolution adopted by the GBM a copy of the resolution adopted by the GBM to be produced and signed by two third of the total members of the people those who are participating the GBM and a copy of the attendance register also has to be attached along with the application.

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**Section 9 – Registration of Trade Union and Cancellation thereof**

1. The Registrar shall, **after being satisfied** that the Trade Union has been complied with the provisions of this Code, **register such Trade Union**, accordingly in the prescribed register along with the application for such registration
2. After the order for registration – the Registrar shall issue a **certificate of registration** to the applicant Trade Union in a prescribed manner – **Conclusive proof** that such Trade Union has been registered under this Code
3. The **Registrar shall enter the name and other particulars of such Trade Union in the register** maintained

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So, the process again continues, once the registrar is satisfied with all the documents the registrar starts registering such documents and the order of registration is passed by the registrar and issues a certificate of registration and the certificate of registration is the conclusive proof of a registered trade union and the registrar, enter the name and other particulars office bearers of the trade union the register maintained by the registrar of Trade Unions under the act. So, there is a lengthy process which we can find in the registrar of any trade union.

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**Section 9 – Registration of Trade Union and Cancellation thereof**

- Every Trade Union having validly registered under the **Trade Unions Act, 1926**, immediately before the commencement of this **Code** – **shall be deemed to have been registered under this Code.**

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And you can see that, so, the trade unions already registered under the old Act are deemed to be registered under the new code aspect. So, that is already, we in the beginning classes, we

said that we have n number of thousands of lakhs of trade unions in India. So, if any people, any 7 people want to form an association or form a trade union, they can register a trade union. So, association, registration of association is different. So, now, we are talking about the registration of trade unions under the Trade Unions Act, 1926 and then the new code.

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**Section 9 – Registration of Trade Union and Cancellation thereof**

- The **certificate of registration** of a Trade Union may be **withdrawn or cancelled by the Registrar**, on the following grounds –
- **On the application of Trade Union**
- On the **information received by the Registrar**, regarding **contravention of the provisions of this Code or any other rules made thereunder by such Trade Union**; or
- If the Registrar is satisfied that the **members of Trade Union fall below 10% of total workers or 100 workers, whichever is less**;
- Provided that the Registrar shall serve a **previous notice of not less than 60 days**

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So, the certificate of registration we already said that it is conclusive evidence and this particular certificate of registration can be withdrawn or cancelled by the registrar under certain grounds. And these grounds include the application of the same trade union or otherwise if the information is received by the registrar, regarding contravention of the provisions of any of the provisions of the code or any other rule of the trade union themselves.

And also, if the registrar is satisfied that the members of the trade union fall below 10 percent of the total workers. So, we already said that that the minimum prescribed criteria minimum prescribed number of workers then also the registrar can cancel such registration. So, the registrar has to give a notice for a minimum of 60 days notice to be given.



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**Section 9 –Cancellation thereof**

- **On an order made by Tribunal for cancellation of certificate of registration of such Trade Union;**
- The Registrar, while cancelling the certificate of registration, shall record **the reason for doing same.**

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And such cancellation of order can be questioned before the tribunal or the higher codes. When the registrar cancelling such registration should record reasons, it must be a recent order, why he is cancelling this particular subject by showing specific reasons or specific grounds under which the registration is cancelled, so, you have to mention the specific grounds under which it is cancelled.

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**Section 10 – Appeal against non – registration or cancellation of registration**

- Any aggrieved person, **may prefer an appeal to the Tribunal**
- The Tribunal may, after giving **reasonable opportunity of being heard to both the parties** – **dismiss** the appeal or pass an order directing the Registrar **to register** such Trade Union and issue a certificate of such registration accordingly or **set aside the order of cancellation of registration** of such Trade Union and forward a copy of such order to Registrar.

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So, once the registration is cancelled, an appeal will like so, the parties can prefer an appeal to the Tribunal. The new tribunal is constituted under the code. So, the provision very clearly says that the Tribunal should give a reasonable opportunity of being heard to both the parties and either the Tribunal can cancel the order or it can dismiss the appeal. And also the

Tribunal can issue a certificate of such registration accordingly they will, they can ask the Tribunal can ask the registrar to issue the certificate of registration and set aside the cancellation of such registration of the union. So, there will be a proper hierarchy of settlement of disputes as well it is mentioned.

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**Section 12 – Incorporation of a registered Trade Union**

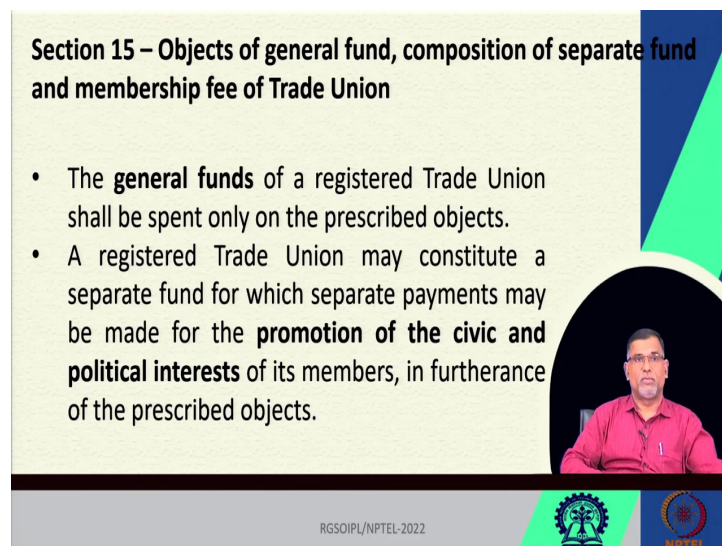
Every registered Trade Union shall –

- **Be a body corporate** by the name under which it has been registered
- **Have a perpetual succession**
- **Have a common seal** with a power to acquire and hold both movable and immovable properties
- Have a capacity **to enter into a contract**
- Having the **legal capacity to sue and be sued** before the Court of law.

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So, a registered trade union is a body corporate by its own name, it is registered. They have perpetual succession and have a common seed. It can occur and hold both movable and immovable properties. So, it has its own legal personality, it can enter into contracts, and it can sue and be sued in its own legal capacity before any court of law.

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**Section 15 – Objects of general fund, composition of separate fund and membership fee of Trade Union**

- The **general funds** of a registered Trade Union shall be spent only on the prescribed objects.
- A registered Trade Union may constitute a separate fund for which separate payments may be made for the **promotion of the civic and political interests** of its members, in furtherance of the prescribed objects.

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And we already talked about two different categories of funds, which can be owned by any trade union and one is general funds, general funds of the trade union which can be spent only for specific purposes of prescribed objectives of this particular trade union. And there must be a separate fund to be kept by the trade unions for the promotion of civic and political interest. So, there are separate funds for prescribed objectives of the trade union and the promotion of civil and political interests. So, the civil and political interests are separate from the general funds.

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**General fund spending**

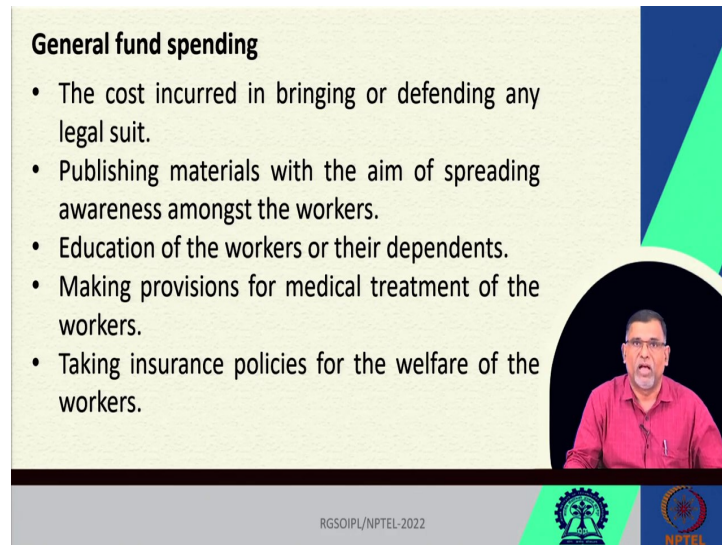
- Salaries to be given to the office-bearers.
- The cost incurred for the administration of the trade union.
- Compensation to the workers due to any loss arising out of any trade dispute.
- Expenses incurred in the welfare activities of the workers.
- Benefits conferred to the workers in case of unemployment, disability, or death.

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So, two types of funds must be available with the trade unions. So, the general funds can be used for giving salaries to the office bearers, the administration of the trade union and compensation to the workers, which is in pursuance to any trade disputes and expenses for the welfare of workers and benefits conferred to the workers in case of unemployment, disability, or death. Again, the question is whether the trade union can give, you know, unemployment benefits, disability benefits or debts? The answer is yes, the political parties can provide they can provide funds to the concerned people in case of all the grounds which can be spent from the general fund of the political parties, and political unions.

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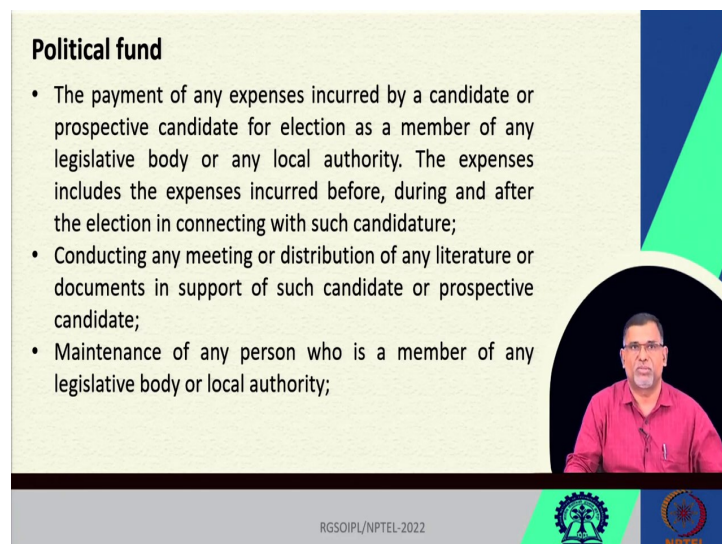
**General fund spending**

- The cost incurred in bringing or defending any legal suit.
- Publishing materials with the aim of spreading awareness amongst the workers.
- Education of the workers or their dependents.
- Making provisions for medical treatment of the workers.
- Taking insurance policies for the welfare of the workers.

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And also they can spend money for defending any case before any court of law for publication. So, the publication with regard to the spreading of awareness among the workers, education of their workers, workers or their dependents, their children, making provisions for medical treatment, taking insurance policies for the welfare of the workers. Even though the Act provides for all these provisions, It is very interesting to do a survey and see how many political parties are providing insurance policies for their members. So, it will be, it is very difficult to assess to be, it is very difficult to assess in the sense that even though there is a provision, most of the political parties are may not be using these provisions for providing or implementing welfare brushes for their workers.

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**Political fund**

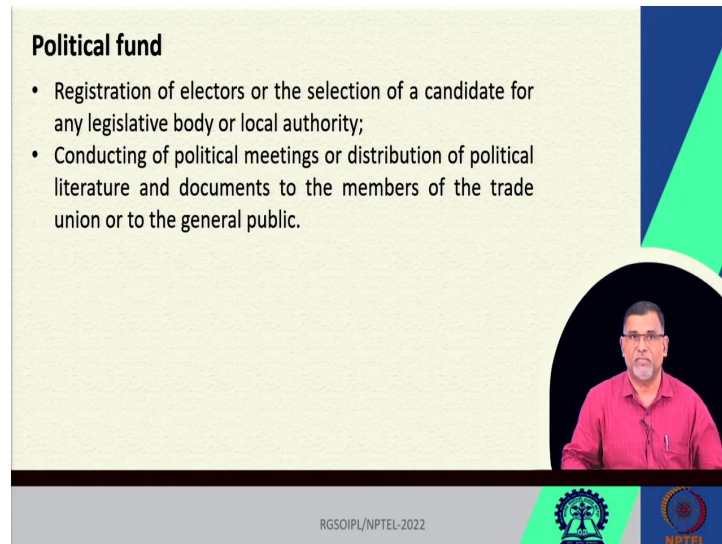
- The payment of any expenses incurred by a candidate or prospective candidate for election as a member of any legislative body or any local authority. The expenses includes the expenses incurred before, during and after the election in connecting with such candidature;
- Conducting any meeting or distribution of any literature or documents in support of such candidate or prospective candidate;
- Maintenance of any person who is a member of any legislative body or local authority;

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So, we come to the political fund and the political fund is a sui-generis class of funds. So, the payments in the case of expenses incurred by the expenses in the form of candidates, for candidates' elections, or the elections to any legislative body or local authority can be spent from these particular political funds. So, these funds include these expenses include before the election as well as after the election which are specifically related to the candidature of that particular candidate. So, conducting meetings, distributing of literature, and other documents related to that particular election or candidate or prospective candidate can be spent from this political fund.

And maintenance so, the maintenance of any person who is a member of any legislative body of local authority also can be spent from these political funds. So, when it is compressed to the general fund, the political fund is a sui-generis fund, which is mainly related to the election and the elected the spending on the electric personals to, it can be to the legislative body or even to the local authorities.

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**Political fund**

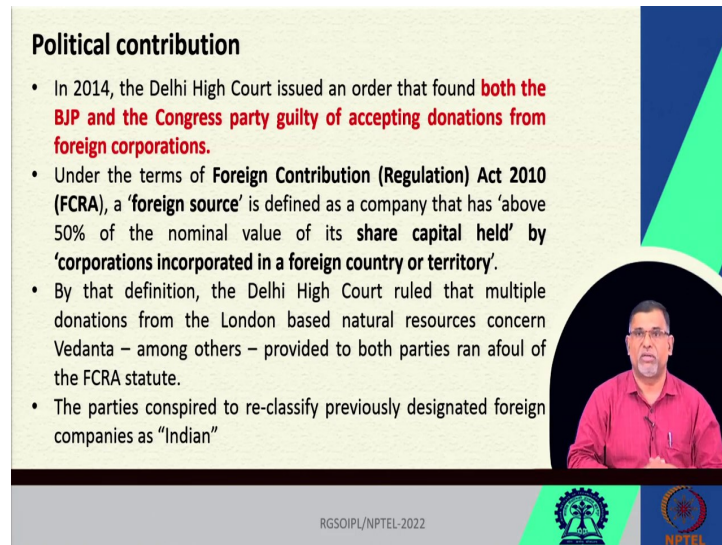
- Registration of electors or the selection of a candidate for any legislative body or local authority;
- Conducting of political meetings or distribution of political literature and documents to the members of the trade union or to the general public.

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So, registration of electors or the selection of a candidate for the legislative body, this fund can be spent, and also this fund can be spent for political meetings, the fund can be specifically for political meetings and political literature, which can be distributed to the general public, which is relating to a particular candidate. So, the purpose of the political fund is very clear, this can be spent only on which relating to elections.

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**Political contribution**

- In 2014, the Delhi High Court issued an order that found **both the BJP and the Congress party guilty of accepting donations from foreign corporations.**
- Under the terms of **Foreign Contribution (Regulation) Act 2010 (FCRA)**, a **'foreign source'** is defined as a company that has 'above 50% of the nominal value of its **share capital held'** by **'corporations incorporated in a foreign country or territory'**.
- By that definition, the Delhi High Court ruled that multiple donations from the London based natural resources concern Vedanta – among others – provided to both parties ran afoul of the FCRA statute.
- The parties conspired to re-classify previously designated foreign companies as "Indian"

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So, political contribution, always the political contributions are under controversy. So, you can see that in 2014 the Delhi High Court tell that both the BJP and Congress Party is guilty of accepting donations from foreign corporations in violation of various provisions. So under the Foreign Contribution Regulation Act of 2010. So, the foreign source is very clearly defined. So, it is a foreign company is defined that if anybody who holds 50 percent or more of the nominal value of share capital held by any corporation will be held as a foreign country or territory corporation.

**So, accepting funds from a foreign** country or foreign territory corporations must be subject to the foreign contribution Regulation Act of 2010. So, the multiple donations from different so, mother companies can be in other states or other countries. So, if political parties may also be charged with violating FCRA rules, foreign companies accepting funds from foreign companies in violation of FCRA rules, so, the political parties may lose their registration according to the provisions of the code as well as the earlier Trade Union Act.

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**Section 19 – Right to inspect books of Trade Union**

- The office-bearer or any member of the registered Trade Union shall have the **right to inspect the books of account** of such registered Trade Union as well as to check the list of the members thereof, at any time and in the manner provided in the rules of the Trade Union.

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So, when accepting political parties, accepting funds, they have to mention it has a general fund or this what, political funds which they are accepting. And office bearers and members of the trade union can inspect the books of account at any point of time. And also, they check the list of members any point of time in the trade union.

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**Section 20 – Rights of minor to membership of Trade Union**

- Any person, **attained the age of 14 years and is employed in non – hazardous industry may be a member of a registered Trade Union** subject to the rules of such Trade Union and shall enjoy all rights of a member and execute all instrument and acquaintances as provided in the rules.

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And it is very interesting to note that the sum of the sections section, especially section 20 which provides that any person who attained the age of 14 years is employed in a non-hazardous industry may be a member of a registered trade union. So, still, the controversies are going on, whether a person at the age of 14 can be employed or not to be employed or

what is exactly the definition of a child. Whether it is 18, below 18 or it is 14 to 18 what is the classification?

So, according to the International Classification child is below 18. But India has a different definition. So, India permits certain industries in certain industries if somebody is attained the age of 14 years, so, we have a conflict with certain ILO conventions as well. So, here so, it means that if somebody is working at the age of you know attained the age of 14 in non-hazardous industries, they can also become a union member.

So, the question with regard to the age the fact of 14 is new. So, again the question is whether this is subject to the rules of such trade unions it is saying that subject to the rules. We can enjoy all the rights of members. So, again the question at the age of 14 somebody can become a member. So, the Act says whether they can become an office bearer.

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**Bokajan Cement Corporation Employees' Union v. Cement Corporation of India, AIR 2004 SC 245**

- **Whether an employee as a result of cessation of employment would lose his right to continue as a member of the trade union?**
  - The rules of the trade union must mention admission of the member of honorary or temporary members as office bearers
  - No provision in the Constitution of the trade union providing for automatic cessation of membership on cessation of employment
- The membership of a trade union is a valuable right which can be taken away only within clear parameters of the Act and the Constitution of the trade union
- **Held that an employee would not cease to be a member of the trade union on cessation of employment.**

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So, in some of the cases So, what is the qualification to become a member? In this particular case, Bokajan Cement Corporation employees union versus Cement Corporation of India 2004 case Supreme Court. The question considered by the court is whether an employee as a result of the cessation of employment would lose his right to continue as a member of the trade union. Once he ceases to be a member in that particular occupation, or ceases to be in employment, whether he will be continued to be a member of that trade union.

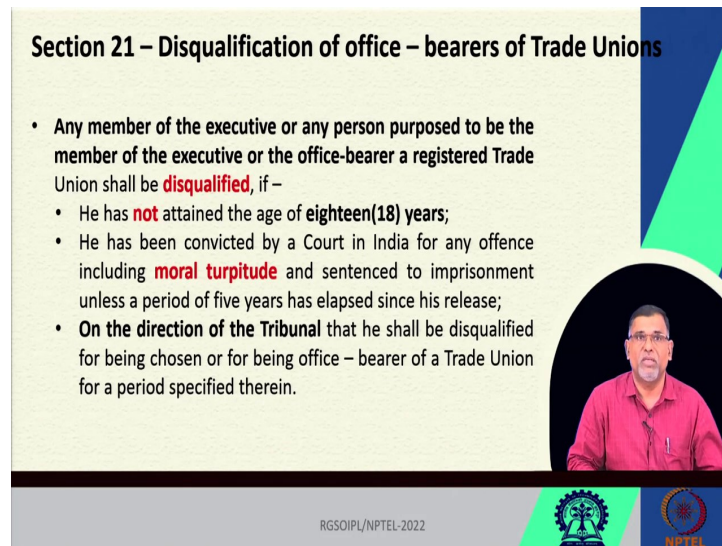
So, he should mention that the trade union rules clearly mentioned about the ordinary members, holder members, temporary members and office bearers. So, if there is no provision in the constitution of the trade union providing for automatic cessation of



membership or cessation of employment, then the membership of the trade union is a valuable right, which can be taken away only with clear parameters of the act and constitution of a trade union.

So, what the Court held, the Court held that an employee would not cease to be a member of the trade union or cessation of employment unless there is a specific provision in the rules of the trade union, contrary to that effect. So, if the trade union rules very clearly mention that, if somebody is going to be ceased to be a trade union member, after his superannuation or his termination, then only he ceased to be a member. Otherwise, if the membership of the trade union is talking about silent about the parameters, especially when the termination of an employee or cease to be a cessation of employment, then he will continue to be a member of the trade union. So, there is you know, a lot of leeways for the trade union to make rules with regard to who is going to be a member when the membership is going to be ceased.

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**Section 21 – Disqualification of office – bearers of Trade Unions**

- Any member of the executive or any person purposed to be the member of the executive or the office-bearer a registered Trade Union shall be **disqualified**, if –
  - He has **not** attained the age of **eighteen(18) years**;
  - He has been convicted by a Court in India for any offence including **moral turpitude** and sentenced to imprisonment unless a period of five years has elapsed since his release;
  - **On the direction of the Tribunal** that he shall be disqualified for being chosen or for being office – bearer of a Trade Union for a period specified therein.

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So, and also we can see that the member of the executive office bearers, can be disqualified if he has not attained the age of 18. So specifically says that even though he can become a member at the age of 14, he cannot become an office bearer if he is not attained the age of 18 years.

And secondly, if he is convicted by a court of law for any offences, including moral turpitude, and send to imprisonment, till and also sentenced to imprisonment a period of five years has elapsed since his release. And then he cannot become an office bearer. And then also on the direction of the tribunal, he shall be disqualified to be chosen for the office bearer

of a trade union for a specific period. So, there are certain qualifications to be maintained, so, he can be disqualified on certain grounds.

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**Section 21 – Disqualification of office – bearers of Trade Unions**

- No member of the Council of Ministers in the Union or a State or any person holding an **office of profit** (not being engaged or employed in any establishment or industry with which the Trade Union is connected) shall be member of the executive or other office-bearer of a Trade Union.

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And also no member of the Council of Ministers in the union or on a state or any person holding an office of profit. So, that means the office of profit includes not being engaged or employed in any establishment or industry, with which the trade union is connected, and shall be a member of the executive or office bearers of the trade union. So, the office of profit is subject to interpretations by the court of laws.

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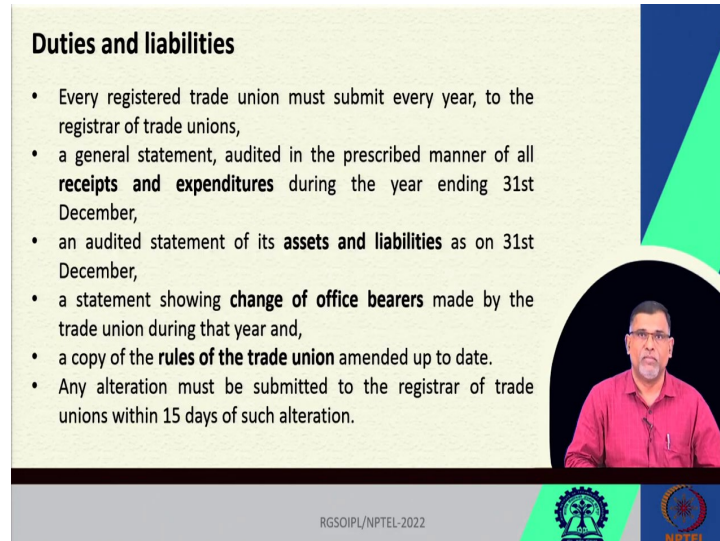
**Duties and liabilities**

- A registered trade union has a **duty to inform the Registrar** of Trade Unions by sending a notice to that effect as to the change of address of the registered trade union.
- The Act imposes on the registered trade union, **duty to spend the funds (general fund, political fund), specifically allotted for the purposes** as stated in the provisions of the act.

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So, it is a duty of the trade union to inform the Registrar of Trade Unions by sending a notice of any change in the office of address or any change in the office bearers. And also it is a duty to inform the registrar about the spending of general funds, as well as the political fund through returns every year.

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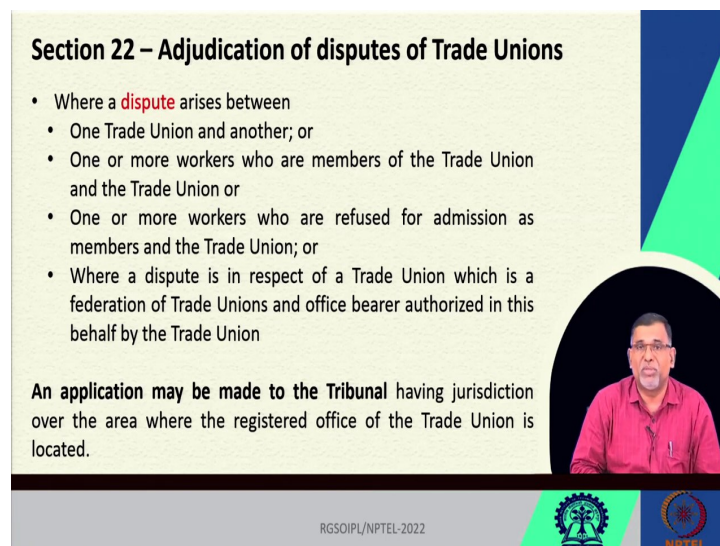
**Duties and liabilities**

- Every registered trade union must submit every year, to the registrar of trade unions,
- a general statement, audited in the prescribed manner of all **receipts and expenditures** during the year ending 31st December,
- an audited statement of its **assets and liabilities** as on 31st December,
- a statement showing **change of office bearers** made by the trade union during that year and,
- a copy of the **rules of the trade union** amended up to date.
- Any alteration must be submitted to the registrar of trade unions within 15 days of such alteration.

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And also, every registered trade unions must send audited accounts, all receipts and expenditures at the end of every year, 31st December. The statement must show the change of office bearers and a copy of the rules of the trade union and also if any alterations are made to the rules and regulations of the trade union.

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**Section 22 – Adjudication of disputes of Trade Unions**

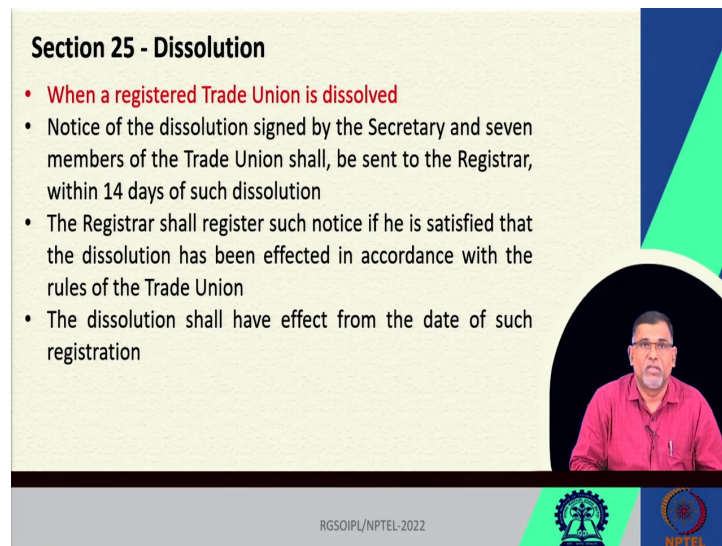
- Where a **dispute** arises between
- One Trade Union and another; or
- One or more workers who are members of the Trade Union and the Trade Union or
- One or more workers who are refused for admission as members and the Trade Union; or
- Where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office bearer authorized in this behalf by the Trade Union

An application may be made to the Tribunal having jurisdiction over the area where the registered office of the Trade Union is located.

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When there is any dispute that arises between the trade union and another, or workers and members of the trade union or trade union. And also you can see that the members of the trade union within themselves or one of more workers who are refused admission as members of the trade union and the dispute in respect of trade unions, which is a federation of trade unions and office bearer this authorized in this behalf of the trade unions, so, we can or they can file an application to the tribunal having jurisdiction with regard to the have located the trade union is located and they can go for dispute resolution mechanisms.

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**Section 25 - Dissolution**

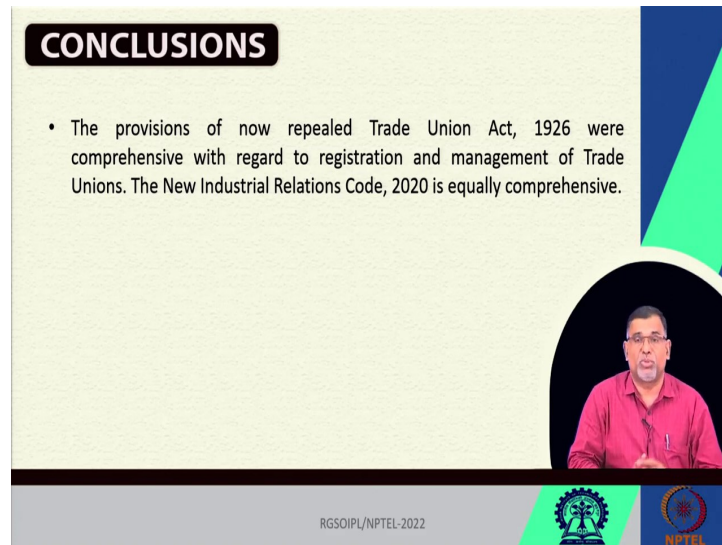
- **When a registered Trade Union is dissolved**
- Notice of the dissolution signed by the Secretary and seven members of the Trade Union shall, be sent to the Registrar, within 14 days of such dissolution
- The Registrar shall register such notice if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union
- The dissolution shall have effect from the date of such registration

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So, Dissolution section 25, which talks about the dissolution of trade unions is a very important provision. So, a notice of dissolution signed by the secretary and all seven members of the Trade Union shall be sent to the registrar within 14 days of dissolution. If the registrar is satisfied, such dissolution has been effected in accordance with the rules of the trade union and the dissolution will be taking effect from the date of such order of the registrar. So, even the members can go to the Tribunal for the dissolution of the trade union as well disputes can be arisen.

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**CONCLUSIONS**

- The provisions of now repealed Trade Union Act, 1926 were comprehensive with regard to registration and management of Trade Unions. The New Industrial Relations Code, 2020 is equally comprehensive.

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So, in conclusion, the registration of a trade union is very important or the first step toward collective bargaining. And most of the provisions of the Trade Union Act, 1926 are absorbed in the new code that is The New Industrial Relations Code, 2020. And there are actively the provisions and comprehensive provisions are included in the industrial relations code, 2020 for the registration of trade unions in India.

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**REFERENCES**

- Trade Union Act, 1926
- The Industrial Relations Code, 2020

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So, we hope that the new provisions are going to be catering to the registration of new trade unions and also the procedures mentioned. Thank you.