

India: Trade Union for Technology Sector Employees Registered in Bangalore

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In India, unionization has historically been limited to traditional sectors such as manufacturing. In a departure from that trend, the Labour Department of the State of Karnataka has registered the first trade union that exclusively caters to the interests of technology sector employees.

The Constitution of India, as well as federal legislation such as the Industrial Disputes Act, 1947 (IDA); Trade Unions Act, 1926; and the Industrial Employment (Standing Orders) Act, 1946 establishes the right to form and join trade unions and engage in collective bargaining. In addition, certain state-specific legislation, such as the Karnataka Trade Union Regulations, 1958 (applicable in Karnataka) and the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labor Practices Act, 1971 (applicable in Maharashtra), govern the right to form unions. Time and again, courts in India have upheld the right of workers to form or join trade unions in India.

According to the applicable law in India, a registered trade union:

1. is deemed to be a body corporate, giving it the status of a legal entity that may, inter alia, acquire and hold property, enter into contracts, and sue others;
2. is immune from certain contractual, criminal, and civil proceedings; and
3. enjoys greater bargaining power than an unregistered trade union.

If a registered trade union is a “recognized” trade union, it enjoys even greater negotiating powers. In fact the IDA states that failure on the part of an employer to bargain collectively in good faith with a recognized trade union will amount to an “unfair labor practice,” which could be punishable with imprisonment and/or a fine.

Comment

The most prominent technology sector players have offices in Bangalore, which is home to the majority of the country’s employees in this sector. With this development in unionization rules, these employees may now look to seek assistance from newly formed sector-specific unions to voice their concerns. Greater trade union activity is likely to curb the flexibility of employers in terms of dealing with various employee issues. To that extent, employers will need to be careful in devising and implementing their HR policies.

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