

NEWSLETTER

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DOING BUSINESS IN INDIA

We are pleased to share our e-book titled

"Doing Business in India"



Please scan the **QR code** above or **[Click Here](#)** to download the e-book. Alternatively, you may write to us at **info@clasislaw.com** for the copy.

The book intends to give the reader an overview of the various aspects of doing business in India including but not limited to the applicable legislations, compliances and processes.

FEATURED ARTICLE



Collective Bargaining and Trade Union Rights: Insights from *Nitya Packaging Pvt Ltd v Presiding Officer*

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Collective bargaining is a fundamental mechanism for maintaining industrial peace and ensuring fair labour practices. It enables workers, through their trade unions, to negotiate with employers on wages, working conditions, and other employment terms. The right to form trade unions is constitutionally protected under **Article 19(1)(c)** of the Indian Constitution, and the **Industrial Disputes Act, 1947 (ID Act)** further institutionalizes collective bargaining as a means of resolving labour disputes.

However, disputes often arise when employers resist unionization or engage in unfair labour practices, such as terminating workers for forming trade unions. A recent case that highlights these issues is ***Nitya Packaging Pvt Ltd v Presiding Officer*[1]**, where the Madras High Court examined the legality of terminating workers for union activities and reaffirmed the importance of collective bargaining and trade union rights.

Legal Framework for Trade Union Rights

Under the Trade Unions Act, 1926, workers have the right to form and join trade unions. While registration of a union is necessary for legal recognition, the *Nitya Packaging* case clarified that even an unregistered union can raise industrial disputes if it subsequently gets registered. The court relied on Section 2(h) of the Trade Unions Act and Section 2(k) of the ID Act, emphasizing that the purpose of labour laws is to facilitate collective bargaining and not to penalize workers for procedural delays in registration. The *Nitya Packaging* case reaffirmed that employers cannot dismiss workers merely for forming a union, as such actions constitute unfair labour practices under Schedule V of the ID Act.

Present Case

The dispute in *Nitya Packaging* arose when the management terminated 25 workers after they formed a trade union in 2000. The Labour Court ruled in favour of the workers, ordering reinstatement with back wages. On appeal, the Madras High Court upheld the findings but modified the relief, awarding compensation of ₹1.5 lakh per worker instead of reinstatement, considering the prolonged litigation (25 years).

FEATURED ARTICLE

The *Nitya Packaging* ruling reinforces several key principles:

- **Right to form Union:** Employers cannot dismiss workers for forming unions, as this violates Article 19(1)(c) and the ID Act. The judgment recognizes the workers' right to form trade unions under Article 19(1)(c) of the Constitution, even if the union was unregistered at the time of the dispute. The Court held that subsequent registration validated the union's actions, ensuring workers could collectively voice their grievances.
- **Collective Bargaining as a Statutory Right:** The Court emphasized the Act's purpose—to promote industrial peace through collective bargaining. It cited ***Niemia Textile Finishing Mills Ltd. v 2nd Punjab Tribunal***^[2] to highlight that industrial adjudication is not merely about enforcing contractual rights but also about addressing unfair labour practices and fostering collective bargaining.
- **Judicial Flexibility:** The court balanced workers' rights with practical realities, awarding compensation instead of reinstatement due to the 25-year delay.

The court in *Nitya Packaging* rejected the employer's argument that the trade union had no locus standi since it was unregistered when the dispute began. The employer relied on ***B. Srinivasa Reddy v Karnataka Urban Water Supply & Drainage Board Employees Association***^[3] where the Supreme Court held "An unregistered trade union cannot represent workers as it lacks legal personality under Section 2(qq) of the Industrial Disputes Act." However, the *Nitya Packaging* court distinguished this by noting that the union was registered before filing the claim petition (June 2001).

Conclusion

The *Nitya Packaging Pvt Ltd v Presiding Officer* judgment reaffirms the fundamental right to form trade unions and engage in collective bargaining as essential pillars of industrial democracy. By upholding workers' rights even when unions were initially unregistered, emphasizing employer accountability in proving contract labour claims, and rejecting unfair settlements, the Madras High Court has strengthened labour protections under Indian law. The ruling aligns with constitutional principles ensuring that workers cannot be penalized for unionizing. While balancing practical realities through compensation (instead of reinstatement), the judgment sets a crucial precedent for fair labour practices and equitable dispute resolution in India's evolving industrial landscape.

FOOTNOTES :

[1] 2025 SCC OnLine Mad 578

[2] 1957 SCC OnLine SC 64

[3] (2006) 11 SCC 731 (2)

LEGAL UPDATES

No separate or fresh notice under Section 21 of the Arbitration Act is required for the disputes arising under the same agreement, where the arbitration has already been initiated.

Introduction

In a recent decision[1], the Delhi High Court bench has held that where the disputes between the parties are already the subject matter of an earlier arbitral reference, a separate notice under Section 21 of the Arbitration and Conciliation Act, 1996 ("Act") is not mandatory for initiating separate proceedings to adjudicate counter claims.

Brief Facts

The present petition under Section 11 of the Act was filed by the Petitioner seeking the appointment of an independent sole arbitrator to adjudicate disputes arising out of a Definitive Agreement dated 27.02.2018. The Agreement provided for a back-to-back payment structure, wherein payments to the Respondent were contingent upon the Petitioner receiving corresponding payments from RISL. As per the Agreement, the Respondent was entrusted with the supply, installation, commissioning, and maintenance of relevant equipment and infrastructure in accordance with the RFP issued by RISL. Clause 18.2 of the Agreement contained an arbitration clause providing for resolution of disputes through arbitration under the aegis of the Delhi International Arbitration Centre (DIAC). Following disputes between the parties, the Respondent invoked the arbitration

clause. The Delhi High Court, by its order dated 14.03.2024 appointed a Sole Arbitrator under DIAC rules, with arbitral proceedings commencing on 13.05.2024.

Subsequently, on 11.11.2024, the Petitioner filed its counter claim along with an application for condonation of delay. However, the arbitrator, by order dated 18.11.2024, dismissed the counter claim on the ground that the delay condonation application itself had been filed belatedly. The Petitioner contended that this dismissal was passed without being granted a hearing, thereby violating the principles of natural justice. The Petitioner then challenged the dismissal by filing an appeal under Section 37(2)(a) of the Act, which the High Court dismissed on 09.12.2024. Nevertheless, in paragraph 11 of its order, the High Court granted the Petitioner a liberty to initiate independent arbitration proceedings in accordance with law for adjudication of its claims.

Observations of the Court

The Court observed that the central issue for determination in the present petition was whether a fresh petition under Section 11 of the Act was maintainable in the absence of a separate notice under Section 21, particularly since the Petitioner was seeking to assert claims that had earlier been brought as counter claims in an existing arbitration. It was not

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disputed that the Petitioner had initially filed a Statement of Defence without including any counter claims and had later submitted the counter claims along with an application for condonation of delay. However, the arbitrator had dismissed the counter claim on procedural grounds without examining the merits.

The Court referred to para 10.3 of its previous judgment, where the Respondent had acknowledged that the Petitioner could initiate separate arbitration proceedings.

In this context, the Court emphasized that Section 21 Act is intended to provide notice of disputes and allow the respondent an opportunity to respond. However, in this case, the disputes were already part of earlier arbitral proceedings, and that the Petitioner had attempted to introduce the same claims as counter claims with the Respondent participating fully, the requirement for a fresh Section 21 notice was rendered unnecessary. The Court clarified that procedural formalities should not override substantive justice, especially when liberty had already been granted by the Court in its earlier order dated 09.12.2024 to initiate fresh arbitration. It further held

that while Section 21 notice is generally a prerequisite to commence arbitration, once arbitration has already been triggered by one party, there is no statutory requirement under the Act for the opposing party to issue a separate notice solely for asserting counter claims. Accordingly, the Court concluded that the present petition could not be dismissed merely on the ground of non-issuance of a fresh Section 21 notice.

Conclusion

This decision reinforces a balanced approach to procedural requirements under the Arbitration and Conciliation Act, 1996. By holding that a separate Section 21 notice is not mandatory for asserting counter claims already attempted in prior arbitral proceedings, the Court prioritized substantive justice over technical formalities. The ruling acknowledges that once arbitration is validly commenced and both parties have participated, reiteration of procedural steps serves no constructive purpose particularly when liberty has been granted by the Court to pursue independent claims. The ruling acknowledges the importance of context and fairness in arbitration jurisprudence.

[1] Railtel Corporation of India Limited v. Primatel Fibcom Limited (ARB.P. 2075/2024)

COMPILED REGULATORY UPDATES

(i) Amendments in SEBI (Infrastructure Investment Trusts) Regulations, 2014

SEBI notified the SEBI (Infrastructure Investment Trusts) (Amendment) Regulations, 2025 on April 1, 2025 to further amend the SEBI (Infrastructure Investment Trusts) Regulations, 2014. Some of the key amendments in the regulations pertain to filling up the vacancy in the office of director or independent director of the investment manager; detailing roles and responsibilities of trustees so as to ensure transparency, accountability, due diligence and compliance; transfer of locked-in units held by a sponsor or sponsor group entities; and permitting investment in unlisted equity shares of a company, units of liquid mutual funds schemes and interest rate derivatives.

(ii) Introduction of Document Number Verification System (“SEBI-DNVS”)

SEBI on March 03, 2025 has issued press release, with respect to Document Number Verification System. Keeping in mind the public interest, transparency in the functioning of the SEBI and to ensure verifiability of all documents issued by SEBI, the Document Number Verification System (SEBI-DNVS) has been launched.

(iii) Amendment guidelines on Corporate Governance and Disclosure Requirements for a Finance Company in IFSCA.

IFSCA has issued an amendment to the guidelines on Corporate Governance and Disclosure Requirements. The amendment focuses on the following:

- The Corporate Governance and Disclosure Requirements for Finance Companies, outlined in the International Financial Services Centres Authority (Finance Company) Regulations, 2021, emphasize transparency, accountability, and sustainability.
- Finance companies must develop a Board-approved governance framework and ensure board members meet "fit and proper" criteria.
- The guidelines apply to all registered finance companies, except those for Global/Regional Corporate Treasury Centres, and include specific competencies and training for board members.

(iv) Updated framework for ship leasing activities in IFSCA

IFSCA has updated the regulatory framework for ship leasing activities. The framework now defines ship leasing as a financial product, encompassing both operating and financial leases, along with hybrid models. Entities wishing to engage in these activities are required to register with IFSCA and meet specific eligibility criteria, including capital requirements and adherence to applicable regulations, such as the Merchant Shipping Act, 1958. The framework outlines permissible crite-

COMPILED REGULATORY UPDATES

-ria, including capital requirements and adherence to applicable regulations, such as the Merchant Shipping Act, 1958. The framework outlines permissible activities, capital requirements and the necessary fees for registration and ongoing compliance. New provisions also clarify restrictions on transferring ship ownership from Indian residents to IFSC entities for domestic service and set guidelines for office space and manpower utilization in ship leasing activities.

(v) IFSCA introduced IFSCA (Capital Market Intermediaries) Regulations, 2025

IFSCA has issued IFSCA (Capital Market Intermediaries) Regulations, 2025 to establish a regulatory framework for the registration, regulation, and supervision of capital market intermediaries operating within India's IFSC. These regulations, effective upon their publication in the Official Gazette, aim to protect investor interests and maintain the integrity of the securities market.

(vi) IFSCA introduced IFSCA (KYC Registration Agency) Regulations, 2025

IFSCA has issued the IFSCA (KYC Registration Agency) Regulations, 2025. These regulations, effective upon publication in the Official Gazette (i.e., April 16, 2025), outline the requirements for entities seeking registration as KRAs, including their legal form and the need for Principal and Compliance Officers with specific qualifications and experience.

(vii) Amendments to Directions - Compounding of Contraventions under FEMA, 1999

The Reserve Bank of India has issued a circular to all Authorised Dealer Category-I banks and Authorised banks regarding amendments to the directions on compounding contraventions under the Foreign Exchange Management Act, 1999. The key change introduced is the insertion of a new clause in the master directions concerning the capping of the maximum compounding amount. The maximum compounding amount imposed for contravention of each regulation or rule within a compounding application can be capped at INR 2,00,000 (Indian Rupees Two Lakh Rupees).

(viii) The Drugs and Cosmetics (Compounding of Offences) Rules, 2025

The Ministry of Health and Family Welfare introduced 'the Drugs and Cosmetics (Compounding of Offences) Rules, 2025', to streamline legal processes in India's pharmaceutical and cosmetics sectors with respect to the compounding of offenses. These rules provide a legal framework for resolving certain offences under the Drugs and Cosmetics Act, 1940, through compounding, allowing offenders to settle cases without involving into the lengthy procedures of the prosecutions.



OFF BEAT SECTION

The World Press Freedom Day 2025 was observed on May 3, marking the 32nd anniversary of this significant day. Established by the UN General Assembly in 1993, it serves as a reminder of the importance of press freedom and the role of journalists in upholding democracy and human rights.

The theme for the year 2025 is “Reporting in the Brave New World – The Impact of Artificial Intelligence on Press Freedom and the Media”. This year's theme focuses on the profound influence of Artificial Intelligence (AI) on journalism and media. It aims to explore how AI technologies are reshaping the landscape of press freedom, affecting content creation, dissemination, and the ethical considerations surrounding these advancements.

Global Event

A one-day global event took place on May 7, 2025, at Bozar, the Center for Fine Arts in Brussels. This event delved into the challenges and opportunities presented by AI in the context of press freedom.

As part of the celebrations, the UNESCO/Guillermo Cano World Press Freedom Prize was awarded to honour the media organization for promotion of press freedom, especially in the face of danger.

Why It Matters

In an era where AI is increasingly integrated into media processes, understanding its impact on press freedom is crucial. This year's observance encourages stakeholders to reflect on the ethical implications of AI in journalism and to advocate for policies that protect the integrity of the press.



Notable Recognitions & Accolades

