CHAPTER-IV

CONCEPT OF TRADE-UNIONISM AND ITS ROLE IN PROTECTION INTEREST OF WORKING CLASS

“*The Trade-Unions should not be content with conservative Motto: A Fair day’s wage for a day’s wages*."

– Karl Marx

4.1. Introduction:

The early Trade-Union’s arose under the stress of speedy industrial-changes-primarily to defend the common interests of the worker’s. Employees-joined-together to express their dissatisfaction for an individual-worker’s-proved to be harmful and ineffective.

The primarily the Trade-Union’s are organisation’s of workers which work for the maintenance and enhancement of their economic-status by insisting on a rise in money wages, improvement in working-conditions and also to include economic-objectives. There are others dimension’s of the Trade-Union’s which have gained importance in the context of the changing socio-political environment. The employees were not only a factor of production but an industrial whose total life situation is a matter of concern for the Trade-Union’s.¹

The Trade-Union is an association of worker’s formed for the purpose of protection and improving the socio-economic status of its members through collective action. The common-feature of all unions is that the union is in theory of democratic-institution. The ultimate-power lies with membership as a whole.²

The Trade-Union-Act-1926 as per Section-2(h) a Trade-Union means any combination, whether temporary or permanent, formed-primarily to regulate the

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relations between workmen and employers or workmen and workmen or employers and employers and for imposing any restriction, conditions or the conduct of any trade or business and include any federation of two more Trade-Unions.  

3 The Trade-Union’s defines democratic ownership for and responsiveness to the objective’s and priorities of Trade-Union-partners, with a view to building their self-reliance within the context of the mission of the Trade-Union movement is a dynamic-concept that takes account of local and global-challenges facing by the Trade-Union.  

4 Trade-Union organisation’s the achievement of maximum degree of consistency in approach at all levels among the variety of development cooperation initiatives and where everything contributes to, rather than conflicts with, everything else.  

Mahatma Gandhiji one who was father of the nation explained that Trade-Union’s are moral institution aiming at making the worker’s better individuals and responsible citizens.

The Trade-Union are considered to be a institutions - experimenting with industrial-democracy, which would strengthen the democratic force and in the function of political-democracy. The Trade-Union’s have been resistance organisation’s defending the interest of the worker’s and observed that they are not exploited. They have been viewed as a instruments to protect themselves.  

A number of the eminent lumanaris elaborated regarding concept of the Trade-Unionism were quoted here.

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4 www.ituc.cst.org.
According to Samuel-Gompers - founder-president of American-Federation of Labour quoted “Trade-Unions were born of necessity of worker’s to protect and defend themselves from encroachment, injustice and wrong to protect the worker’s in their inalienable right to higher and better life; to protect them, not only as equals before the laws, but also in their rights to the product of their labour; to protect their lives, their limbs, their health, their homes, their firesides, their liberties as men, as workers, as citizen, to overcome and conquer-prejudice and antagonism; to secure them the right to life, and opportunity to maintains that life, the right to full-shares in the abundance which is the result of their brain and brawn, and the civilizations of which they are founders and mainstay.6

4.2. Karl-Marxian Approach:

The Trade-Unionism is based on the concept of the class struggle between the employers and employees. The rule of Trade-Union is bringing about a revolution in the society. In the communist manifesto Karl Marx and Fedrick-Engels give the origin of the union in the following word’s.

"With the development of industry, the proletariat not only increases in number, it becomes concentrated in greater masses; its strength grows, and it feels that strength more the collisions between Individual-workmen and individual bourgeois take more and more the character of collisions between the two classes. There upon the workers begin to form. Trade-Union’s against bourgeois they club together in order to keep the rate of wages; they form permanent Association in order to make provision before hand for those acquainted revolts.

The Trade-Union’s is viewed as a revolutionary and politically organized one. It has a social revolution goal of capturing the government. This concept of the Trade-Unionism is based on the idea of class-struggle. In their struggle against employer’s, the employees units to form a Trade-Union. They may over through the employer acquire ownership of mean’s to production. The Trade-Union’s look upon the employer’s as a enemies of the working-class.\textsuperscript{7}

\textbf{4.3. The Sydney and Webb’s Approach:}

According to the webs who conducted extensive studies of early english Trade-Unions, these associations extorted an influence on employment that paralleled the development of democracy in Government. They have considered Trade-Unionism as an extension of the principle of democracy in the sphere of industry. Trade-Unions are regarded as institutions for overcoming managerial dictatorship to strengthen individual labourers and to give them voice in determining the conditions under which they have to work.

They concluded that unions represented a means by which worker can cope with the stronger political and economical power of employers and thus, can introduce democracy into working relationships, The webs also recognized permanency of class conflict, but a solution could be found out through equality and collective agreements. Therefore, Trade-Unionism is not an instrument for the revolutionary overthrow of the capital order but is a means of equalizing the bargaining power of labour and capital and thus encouraging the adoption of common rules which are practical and human. The webs argue that it was merely necessary to eliminate industrial autocracy and replace it with industrial democracy, which in turn would guarantee to all citizens a national minimum of

\footnote{\textsuperscript{7} S.D. Pannekar, S.B. Deookar, Saraswathi Sankeran, Labour Welfare Trade-Union and Industrial Relationship, Himalay Publication House, Bombay, 2011, p. 162.}
security. There would be public direction only of major industrial process. To the Webbs, the Trade-Union movement, therefore, is a vital instrument of the evolutionary process\(^8\).

**4.4. Sumner Slitcher’s Approach:**

He noted that there were several circumstances which hindered individual bargaining. In his view individual bargaining is an unsatisfactory way of controlling work and working conditions because, employers who use methods which improve the labour supply are not sure of gaining as a result and employers who use methods which spoil the labour supply suffer direct losses. Slichter, therefore, noted that through their unions members developed a whole network of work rules and traditions as a system of industrial jurisprudence. These rules become a means of protection to employers in their work as such as the system of public law protects citizens from arbitrary action by the Government.\(^9\)

**4.5. Selig Perlman’s Approach:**

According to him the character of the labour movement in a country must depend upon the particular combination of these factors a) The resistance power of capitalism, determined by its own historical development b) The degree of dominance over the labour movement by the intellectual’s mentality which regularly underestimates capitalism’s resistance power and over estimates labour’s will to radical change and c) The degree of maturity of a Trade-Union mentality.

Perlman argued that employees recognize the scarcity of employment opportunities and the employer possesses a high degree of bargaining advantage

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\(^9\) Summer Slichter’s, Challenges of Industrial Relations, 1947, p. 72.
over them. Viewing the situation as bargainers, employees are forced to give their best attention to the menaces they encounter as bargainers, namely the competitive menace. Their impulse is not to suppress the employer but to suppress their competitive menaces. To do so they must organize into a union and engage in a class struggle against the employer. It is the employer’s purpose to bring in ever lower and lower levels in competition among labourers and depress wage. It is the purpose of the union to eliminate those lower levels and; to make them eliminated. It is labour’s aim to continue increasing its bargaining power and with it its share of industrial control, just as it is the employer’s aim to maintain a status quo or better. Although this presupposes continuous struggle, it is not revolutionary, but an opportunist struggle.\textsuperscript{10}

Perlman however, viewed the Trade-Union mentality as the most vital factor shaping the form of labour movement. He said that Trade-Unionism struggles constantly, not only against the employers for an enlarged opportunity measured in income, security and liberty in the shop and industry but struggles also whether consciously or unconsciously, actively or merely passively against the intellectual who would frame its programme and shape its policies.\textsuperscript{11}

Perlman’s theory assumes significance since it indicates how the reaction of both intellectuals and workers to the process of industrialization under capitalism assume plural forms depending on variations in the three factors from one society to another. This pluralistic emphasis of the theory is of much importance today. It has also become possible that industrialization could be achieved by an economic system different from capitalism and its market mechanism. Centrally planned economies achieve capital formation through

\textsuperscript{10} Selig Perlman, A Theory of Labour Movement, McMillan Co., New Delhi, p. 28.
\textsuperscript{11} Ibid, p. 29.
compulsory saving imposed on the working class. Since the revolutionary intellectuals are ideologically wedded to the idea of Trade-Unionism, they adopt control. However according to AL. Gitlow as time and the harshness of early industrialization passes the controlled Trade-Union movement may acquire increased power and status as an instrument for the expression and settlement of worker’s grievances.\textsuperscript{12}

\textbf{4.6. Robert Hoxie’s approach:}

Robert Hoxie, an American Labour economist, gave a solid psychological interpretation to Trade-Unionism and believed that Trade-Unions have emerged owing to a group psychology. That is Trade-Unions, constituting a common interpretation and set of beliefs concerned with the problems confronting the workers and generalized programme of amelioration. Establishing the idea of functional types of unions. Hoxie, found unionism to be a social philosophy an interpretation of the social facts and relationships, which bear upon the particular group of workers, he argues that workers similarly situated economically and socially and closely associated and not too divergent in temperament and training will tend to develop a common interpretation of the social situation and a common solution of the problems of living. Thus, unionism is not so much an outward organization as a like minded, group. To understand Trade-Unionism, one has to take into account environmental conditions and temperamental characteristics of the workers concerned.\textsuperscript{13}

The analysis of functional types of Trade-Unions made them to believe that unionism is not a unified, consistent entity and is at bottom non unitary. He further states that while unionism in its ultimate effects on industrial

\textsuperscript{12} Selige Perlman, A Theory of Labour Movement, McMillan Co., New Delhi, (1928), p. 29.
\textsuperscript{13} Robert Hoxie’s Trade-Unionism in United State, New York, Russels Russel, 1921, p. 58.
organization and conduct of industry is democratic in the sense of its effort to take from the hands of employers autocratic, feudalistic democratic industrial revolution – unionism in its own organization and conduct is hardly to be called democratic.\textsuperscript{14}

4.7. Frank Tannenbaum’s Approach

According to Frank Tannenbaum the emergence of Trade-Unionism is spontaneous and inheritant in the growth of capitalism. Trade-Unionism owes its origin to industrial Revolution which led to disruption of the older way of life and creation of a new society, forged by shop factory, the mine and the industry. Tannenbaum believed that the fundamental cause of exploitation of men is the use of machine, and therefore the labour movement is the result and the machine is the major cause. Thus the labour movement seems destined to achieve complete control of the industrial functions of the community by constituting service for profit in industrial enterprise and with service democracy into industry. The machine, trespasses the security of the individual worker and the wage earner reacts, in self defense through a union to attempt to control the machine and in this process he contributes, through the union to the well being of the present day society and intends ultimately to displace the capitalist system by industrial democracy an achievement which is implicit in the growth and development of the organized labour movement.

Tennabauum felt that Trade-Union is rebuilding our society. Trade-Unionism is not merely an economic organization, it is also a social and ethical system and its ends are oral and not economic because it strives to re-establish the values in which man has found his dignity. It gives back to the worker, his

\textsuperscript{14} Ibid, p. 59.
society and code of conduct by which he can live. In this sense, Trade-Unionism is counter revolutionary.\textsuperscript{15}

4.8. Gandhian Concept of Trade-Unionism:

The Gandhian ideology of truth and non violence had its application to the Trade-Union movement in India in the early twenties when Gandhiji played an important role in bringing about a peaceful settlement between the employers and employees in the cotton textile industry.

Gandhiji admitted two classes existence but with his faith in the goodness of man, he ruled out the need for class-struggle. Gandhiji views have arisen out of the fundamental principles of his idealism, such faith in the goodness of the individual, purity of mean’s, economic-equality, trusteeship, removing the evil of industrialization. He believed that the Trade-Union’s should be internally used for reformation of worker’s as good citizen’s, as also for their defence against assaults from outside. The Trade-Union’s can be moral-institution for the improvement of behavior, and belief in the dignity of the Labour.\textsuperscript{16}

Mahatma Gandhiji advised worker’s to organize because then they would have more wealth and resources through thing labour than the capitalists though their money.

4.9. Role in protection of interest of Working Classes:

Trade-Union’s are organized by the worker’s to solve the labour-problems created by modern-industry. It is in the interest of Trade-Unions to understand the nature of the modern-industry and nature of labour-problems

\textsuperscript{15} Frank Tannenbaum’s, A Phylosophy of Labour, Alfred Knoc A Knif, New York, 1951, p. 29.
various Trade-Union’s in the field of labour are working to tackle these problem’s.

The best agency which the worker’s can employ to deal with labour-problems in their own organization i.e., the Trade-Union. The primary duty of the Trade-Union is to solve the labour-problems created by modern-industry. It can through organized action, eliminate exploitation and provide better-welfare facilities to worker. It can use a variety of methods, such as mutual-insurance, welfare-work\textsuperscript{17}, collective-bargaining, labour-legislation and even direct action like strike etc.

Employees associations constitute on the stakeholder in industrial relationship. These associations are popularly known as Trade-Union’s Trade-Union’s union’s are not confined to mere striking and negotiation on behalf of worker’s interest but their role is much wider experience. In the union presence selection and requirement will be made, they may also decide who is to hired and under what condition Trade-Union can also play an important role in deciding who is to be promoted, given new job assignments sent for training, terminated or laid-off. Many programmes which contribute to quality of work of the labour and productivity are taken by the management in consultation and with the cooperation of the Trade-Union. Trade-Union’s decides wages and salary structure and negotiate revision’s once in three years and role of the Trade-Union’s in industrial-relationships is too-well known.\textsuperscript{18}

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\textsuperscript{17} V.V. Giri, Loc. Cit., p. 1.
Definitions:

Thomas T.: Trade-Union’s are legitimate systems for organizing worker’s to voice their rights and grievances without a ‘Trade-Union’s, companies would become either too paternalistic or too dictatorial.¹⁹

Ratnam: The Trade-Union are responsibly played an important role in maintaining cordial-relation between management and labour.²⁰

Gosh Gitika: The right to form a Trade-Union and bargain collectively protects workers from exploitative and abusive conditions at work and put pressure on employers to share-productivity gain with their employees. Basic protection of interest of the working class and human-rights in developing nation’s. Thus necessitate unionization so that the working-population can reap the benefit of economic growth.²¹

Ghosh P. and Gitika: The main role of the Trade-Union representation of the working class and collective bargaining have been key to the growth of a stable working-population is developing economics and have made it possible for workers to gain a more equitable share of wealth that they creates, they are also able improve the working condition and help workers gain job security changes in political, social and education environments regarding the awareness of rights such as the right to organize, the right to bargain and right to settle terms and conditions of employment have caused workers Trade-Union to spring to up to protect and further worker’s interest. Thus, with the establishment of minimum wage, norms for mandatory working-hours, provision for health and safety and

over all improvement in working conditions such Trade-Unionisation has become an instrumental in improving the Quality of life of workers.\textsuperscript{22}

Trade-Unions have a crucial role to play in industrial relations. They have broad objective which are

1) To redress the bargaining advantage of the individual worker vis-à-vis. The individual employees by substituting collective action for individual action.

2) To secure improved terms and condition of employment for their members and the maximum degree of security to enjoy these terms and conditions.

3) To obtain improved status for the workers in his or her work, and

4) To increase the extension to which Trade-Union can exercise democratic control over decisions that affect their interest by power-sharing at nations, corporate and plant levels.\textsuperscript{23}

The Trade-Union role is exerted by primarily at two levels

a) Industrial level, to establish-joint regulation on basic wages and hours with an employers association or its equivalent, and of the plant level. Where the shop Stewards, organization exercise joint control over some aspect of the organization of the work and localized term’s and condition of the employment.\textsuperscript{24}

b) The Trade-Union are major component of the system of modern-industrial relations in any nation, each having their own set of objectives or goals achieve accordingly to their constitution and its own strategy to reach these goal. A Trade-Union is an organization formed by worker’s to protect their interest and improve their working-condition, among other goals. It is a

\textsuperscript{22}Ibid, p. 562.
continuation association of wage-earner’s for the purpose of maintaining and improving condition of the workers\textsuperscript{25}.

**Trade-Union as a legal-entity:**

The principal purpose of the labour laws is to regulated, to support and to restrain the power of the management and power of the organized labour. Labour Law administration by the Labour Court and Labour Tribunal created under labour laws.

**4.10. Gulbarga District Industrial Profile:**

The economy of the Gulbarga district, primarily in Agriculture in nature out of 20 district of the State, the Gulbarga is 19, for place among the State for the growing population, agriculture sector is unable to provide in creating per-capita income. There were 5 large scale industries in Gulbarga. In Gulbarga district of which 3 units situated in Chittapur Taluka. The Jayeep Cement Limited, at Shahabad, Alstom India Ltd., at Shahabad, A.C.C. Cement Work’s Wadi (Jn.) and in the taluka of Sedam Rajashree Cement Pvt. Ltd., and Vasavadatta Cement Pvt. Ltd., in Gulbarga district four large scale cement industries and one is engineering works.

A Trade-Union is an organization based on membership of the employees in various-trade, occupation and professions, whose major focus is the representation of its member’s at the place of the working and in the wide society. It particularly seeks to advance its interest through the process of rule making and collective bargaining.

This piece of national-legislation of Trade-Union Act 1926 provides a function of the Trade-Union, in the keeping with the purpose of the legislation.

\textsuperscript{25} Danker, C.E. Contemporary Unionism, Parentic Hall, New York, 1948, pp. 28.
The Trade-Union’s themselves to set out their functions with their rules book’s. Most of them add others, in addition to the function mentioned above, including intervention in the economy through sponsorship of the Trade-Union role for the protection of the working class.

4.10.1. Role of Trade-Union in Gulbarga District:

Generally, it is possible to summarize the various role, which Trade-Union to protection of the working class in Gulbarga district for examine Jaypee Cement Pvt. Ltd., and Alstrom Pvt. Ltd. India.

The Trade-Union represents the interest of the working class in the industrial organization. The Trade-Union, was a vital role in the industrial relation’s scenario. They bargain with their employees at the all levels viz., plantlet, industry and national level, while protecting and promoting the interest of the working class, the Trade-Union by the large should be inculcate high spirit of self discipline and the high ideals of industrial democracy among members. They also help the government in formulating progress policies on labour relation.

The Trade-Unions in India have shaped so many national leader’s and statemen in social organization of India. The Trade-Union’s have become a permanent feature and they have attained a pre-eminent status.

Trade-Union have an extraordinary role in industrial relation by protecting the interest of the labour and bring happiness and greater peaceful in the social organization of the industry. Even the changing technological situation.
4.10.2. National Commission of Labour:

Enlist following roles of the Trade-Union:

1) To secure fair-wages for the workers
2) Safeguard the security of tenure
3) Improve condition of service
4) Promoting and training
5) Living condition of the worker
6) Interest work – Industry and original

a) Shahabad Cement Factory worker’s union (AITUC):

Com. Srinivas Gudi, president of the Shahabad Cement Factory Worker Union (AITUC) in the year 1964-65. He initiated unto death hunger strike on companies gate by putting a big rock on the stomach. Against the A.C.C. Management for reducing to canteen tea for worker’s from 6-5 paise, it was the historic-record for the succeed the demand of the working class in the A.C.C. Shahabad. Such number of issues settle by the Com. Srinivas Gudi by negotiable of conciliation with the existing management of the company.26

In the year 19-06-1994 the General Body Trade-Union election was held by the (AITUC) Shahabad Cement factory worker’s union. Mr. C. Gurunath elected the president of the workers Trade-Union and Malleshi Sajjan, H.S. Pathki, M. Obedulla, elected as vice-president’s Com. Bhimsing Singhe as a General Secretary rest of them joint secretary Balraj Juppalli, Rukkappa addition to elected executive member’s of the Trade-Union.27

On 8-4-1997 the notice has been displayed by the management regarding power restriction to be imposed in the worker’s colony without taking Trade-

27 Balraj Juppalli, Gen. Secretary, AITUC, Shahabad interviewed on 19-01-2014.
Union representatives in confidence which also resulted in aggravation at that junction Shahabad Cement factory worker’s union (Recognised along with worker’s Gehored Management. The Gehored continue and not allowed to go out side the company a single labour till the notice of power cut withdrawn.

The management declared lockout in the situation created a tension in the factory at the time. Deputy labour commission Gulbarga region also present and lifting of the Lockouts notice had been withdrawn by the management and worker’s union come to settlement V/s 2(p), 18(1) and 19 of the Industrial Dispute Act 1947 (as amended up-to-date) and under the rule 5 of the Industrial Dispute (Karnataka) Rules, 1947.

The management not to deduction of wages for the period of lock out in 1997.

1) There will not victimision of the worker’s by the management against any workers.

2) Pending workers gratuity should be cleared.

3) Each number of the issues gained by the Trade-Union movement for the interest of the working classes of the industry.

In the year 1998 Com. Labour Ex. Minister C. Gurunath protest Rail Roko programme for the arrear wage’s of the Employees Recovery Certificate which was passed by the Dy. Labour Commission Gulbarga U/s 33 C (1) I.D. Act 1947 the company should actioned for sale under the Land Revenue Act. Bombay-Chennai mail detained by the Trade-Union leader at nearly 8 hour. At the last movement stay order received from commissioner of labour Bangalore such a worker’s movement took place for the protection of the working class.28

28 Interview by the Sri. Balraj Jupelle, General Secretary (AITUC), Shahbad.
4.10.3. New Management:

The Associated Cement Company (ACC) Cement factory sold out to the Kolkatta based HMP Cement Ltd., for Rs. 4.63 crores with an assurance that the workforce employed at that time would not be retrenched or their future not harmed. However, immediately after the factory was taken over by the new management the worker’s were harassed even as a compulsory voluntary retirement scheme was introduced.

Mr. Sajjan Malleshi president of the Shahabad Cement Factory Worker’s Union (AITUC) said that Poddar’s Cement Factory. Management were not traditional cement manufacturer and the four cement factories purchased by them from the ACC. Krishna Cement factory in Andhra, Porbandar Cement Factory Gujarath, Shahabad Cement Factory in Shahabad Karnataka. These cement factory were closed due to the mismanagement and with an intention to sell property and make quick profits.

The Shahabad Cement factory worker’s union (AITUC) has urged the government to take over Shahabad in Gulbarga district (Karnataka), which has been remained closed for more than 9 year’s and review the hopes of more than 1000 worker’s displaced due to the identified closure of the factory in the year 1997.29

4.10.4. Worker’s Stage Dharna:

The worker’s of the Shahabad Cement Factory Union (AITUC), which was closed down more than two year’s ago, staged a dharna in front of the resident of the Minister Baburao Chawan for his failure to enable them get their dues. The president of the Shahabad Cement Factory Workers Union (AITUC)

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29 The Hindu, November 22nd, 2002.
Sajjan Malleshi and former-minister of Labour Karnataka Government S.K. Kantha, participated in the Dharna along with Balraj Juppalli, General Secretary of the Union.

The workers who shouted Slogan’s against the Minister’s, alleged that Mr. Chawan never bothered about to help to solve their problem’s and provide employment to them after the closure of the factory. The cement factory purchased the unit in December 1989 from Associated Cement Company (ACC) and closed it in December 7-12 1997 citing heavy losses, later, the management re-opened the factory after signing an agreement on cutting down wages of the employees.

After some times, the Management closed down the factory stating that it was not in a position to run it. The Trade-Union leaders said nearly 100

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worker’s expired due to starvation and financial problem’s after the closer of the factory. The government duty was to protect the interest of the working class but government failed here.

4.10.5. HMP Cement Factory re-opened:

The Cement Factory at Shahabad known as HMP Cement is all set re-opened on 06-12-2006 after being closed from the past nine years bring joy and jubilation to the working class. After a more long legal battle the worker’s have heaved a sight of relate.

The factory was closed in the year December 1997 as the owner of the HMP Cement Ltd. of Kolkatta, had washed his hands by defaulting payments not only the worker’s, but also other’s creditor’s. The dispute since then was come along various legal issues including the Hon’ble High Court of Kolkatta and Debt Recovery Tribunal (DRT) Kolkatta.
A Zawar Cement Pvt. Ltd., a Pune based Cement dealing Company, has volunteered to venture into cement manufacture, by taking HMP Cement. Mr. Sajjan union president thanked the DRT-presiding officer D.C. Thakur and Kolkatta Hon’ble High Court Chief Justice, Hon’ble Vikas Sridar Sirpurkar for their exemplary concern for the cause of the working class\textsuperscript{31}.

4.10.6. Re-started Work:

The work to overhaul machinery of the fact while HMP Cement factory in Industrial town Shahabad in Gulbarga district is going on in full swing.

The president of the Shahabad Cement Factory affiliated to (AITUC) Sri. Malleshi Sajjan, who was instrumental in receiving the factory by taking up the issue with DRT and getting as order in favour of the more than 858 worker’s. The Union leaders thanked Zawar Cement Ltd., for acquiring the 81 years old factory and guaranteeing the employment all permanent employees who were on the roll’s when the factory was closed in 1997.

Originally, Tata Group established the factory in 1925 later it was taken over by the Associated Cement Company (ACC) which sold it to HMP Poddar Group in 1989. A new hope has descended on the once dis-isolated colony of the factory.

4.10.7. Jaypee Group:

Shahabad Cement Factory now owned by a big conglomerate Jaypee Group (Jaypee Cement Corporation Ltd.) the third largest cement producer in the country.

Zawar Cement Ltd., though re-opened the plant, but could not be run-fully due to the wet process and absolutes old technology. Hence it was decided

\textsuperscript{31} Indian Express, Bangalore on 09-12-2006.
to modernize the plant with a one million tonnes capacity cement plant. It is lack of that M/s Zawar Cement made an arrangement with M/s Jaypee Group who came forward with a huge investment of Rs. 3000 crores for putting up a modern cement plant of 6 MTPA and 90 MWCPP in two phases of 3MTPA each.

It is learnt for the management that the project come. Immediately on receipt of environmental clearance. It is learnt from the Management that after entry of Jaypee Group, the business in the local market was flourished. The company has made commitment to take up social development activities in Shahabad as well as near village’s which will be boom for all the people. Needless to mention that it is because of the effort of the Trade-Union. Now project was in progress in day by day according to my observation plant will started in the year 2014.\textsuperscript{32}

ABB A Boiler’s Cement and its connected Genuine, Alloyee, Iron-rolls and costing erection will be started in Shahabad, it was started in the year 1964 A.C.C. It is an private industry before 11-08-1995 it is ACC Babcock Ltd.

In the year 1980, a Small Trade-Union formed by CITU affiliation at ABL Shahabad with a effect of Gangadhar Namoshi and working class like A.B. Das, Dharmveer etc. the CITU Expanded it’s base in the ABL-Factory within a short period and become one of the strongest Trade-Union in the Gulbarga District.

In the year 1986 due to the financial crises of the Industry had been closed illegal. However, in the year 1982 company become ABL, because the major share holder was ACC Group’s Minor share were Babcok Ltd. at that

\textsuperscript{32} Interview by Sridhar Toni, Trade Union Leader.
time central government project is Sunjay Gandhi Thermal power project ordered was placed by central government. But project amount not paid by the government. The company come’s under the financial crunch at that time industry appeared before the Hon’ble High Court of Bombay for liquidation purposes. A National Thermal Power Plant Ltd., India also impled as a party before the Hon’ble High Court Bombay for liquidation process.

A.B. Das president of the ABL Worker’s Trade-Union created a historic struggle to re-starting of the Industry. He arranged a big rally at Delhi to pressurized the Central Government its should, be review of the industry.

Hon’ble Minister of Petroleum, Government of India Late (Mrs.) Veerendra Patil he represented from the Gulbarga district a Member of parliament, he raised the issue before the parliament and initiated all governmental institution in good process for the revival of the industry at that time Chief-Minister of Karnataka J.S. Patil and Hon’ble Ministry of Labour Sri. S.K. Kanta, they have taken keen interest to revival of the industry of Shahabad in Gulbarga.

Ministry of Energy, IDBI prepared a Rehabilitation package of the company prepared by the Central Government Ministry of Power, IDBI, agreed for the rehabilitation of the Industry before the Hon’ble High Court of Bombay and some Financial exemption like. The Karnataka Government supported and Bank Guarantee given by the West Bengal when Jyothi Basu was the Chief Minister of the State of West Bengal and given assurance to provide work order’s of companies production.
The National Thermal Power Corporation (NTPC) having major share in the company ABB purchased the share by the NTPC. Now its become ABB ABL Ltd.

After a Industrial working class in a struggle for a revival of the industry by the effort by Trade-Union leader Com. A.B. Das Industry Re-started in the year 1988 in the name of ABL. The closing period 20 month wage settlement was made. The worker’s Trade-Union of ABL and 50% of the wage’s would be paid immediately 25% amount to be paid after 5 year, and 25% wage should scarified by the union for revival of the industry and running of the plant for survival of the working classes.

Such a Trade-Union played a very important role for revival of the industry now it was provided nearly 1000/- Direct Employment and indirect employment also and other hand its created economic development of the country as a whole.33

4.11. Hypothesis Analysis:

In the instant research to aims at the analysis of the how the Trade-Union became a legitimate instrument for the protection of the working class with reference to Gulbarga district large scale industries for the purpose there are various hypothesis where in concentration of study has to be made. The objective of the study can be hypothesized in the following problem’s and their analysis next in the order of the study of the Research Thesis would be application of the result of the hypothesis with the data collected and there by driving at the result of the hypothesis.

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33 Interview by Trade-Union president Com. Padamaraj Alstrom Ltd., Shahabad, p. 943.
First: The study would be know that weather, Trade-Union is legitimate instrument for the protection of the working class in existing Trade-Union Act, 1926. Sufficient and satisfactory or fool proof is that protection of the working classes in the industrial establishment of Gulbarga district Karnataka State.

Secondly: With regard to the Trade-Union as a legitimate instrument for the protection of the working classes. A case study of 5 large scale industries in Gulbarga district Karnataka state, the hypotheses had been tentatively framed and I have been tested for the present study.

1) The industries observing the provisions of labour and industrial law in India.
2) There are many reasons for not implemented the Trade-Union law’s.
3) There are many reason’s that have been developed by the management for declaring on Industry as a sick industry.
4) The industries or factories are closed un-wantedly and illegally.
5) There are many impact and implication’s due to closing down the industry.
6) There is a great role to be played by the Trade-Union’s for the efficient and effective working of the industries / factory and also revival of the industry.

Thirdly: It would also the aim of the above hypothesis as to weather Trade-Union under the provision of the Trade-Union Act 1926, and labour laws are help full for the protection of working classes under the industrial dispute Act 1947.

In order to get answer to the above hypothesis is consider’s in the department of working condition of labour with reference to the referred area of Gulbarga large-scale industries with targeted labour’s problem’s as enumerated above.
In this study necessarily focus on the entire gamut of the labour law’s and Trade-Union Act 1926 law’s made by legislation bodies, like National Labour Law’s made by legislation bodies, include like National Labour Commission. Including the Constitution of India for the protection of the working classes. Further the answer to hypotheses is found analysis of the cases decided by the judiciary on the topic’s.

**Method of Study:**

The present study is to be conducted through both the method’s doctrinal and as well as non-doctrinal. Doctrinal method is to be used analyse and describe the historical and philosophical bases of the Trade-Unionism by utilizing the literature already available in various form’s and sources.

**Chart showing the various process involved in Interview**

General Research  
5 large scale industry in Gulbarga District  
→  
Specific Research Question’s  
→  
Interview Topic Trade Union as legitimate Instrument for protection of the Working class  
→  
Formulating interview Questionnaire  
→  
Review / Revised the question’s  
→  
Finalized by Research-Guide
The non-doctrinal or empirical method is to be used to understand and analyze the practical aspect’s of the problem’s by serving the questionnaires to the respondent, who was identified within the working class of the industries of the Gulbarga district by adopting appropriate sampling method. The non-doctrinal aspects also cover interview method. The interviews was conducted to the selected working class and leader’s of the Trade-Union’s of the industries of Gulbarga district to understand and analyzed practical application and observance of laws relating the working class.

Source of Material:

In the present study the sources required will be collected from both the primary as well as secondary’s sources. The primary sources of the data include the data to be collected by serving the questionnaires and conduct the interview and also include the legal instruments governing the industries, labour. Laws and Trade-Union Act 1926, report of the government and judgment of the higher courts and tribunals.

The secondary sources include the literature in the form of research report, books, articles, journals and comments from eminent personalities, expert’s and writer’s and proceeding’s of the National and International Seminar’s, Workshop’s, Conference Reports and Symposia etc., covering the topic of the research.

Scope of the Study:

In the present it has been endeavour analysed that how the Trade-Union become a legitimate instrument for the protection of the working class with attempted to case study of large scale industries in Gulbarga district, Karnataka State. In this direction a combined study and investigation of the legal instrument’s governing the industries and legal instruments mean’s for labour welfare with focus on the Trade-Union Act 1926. The scope of the study in
relation to relation of geographical area is concern confined to Gulbarga district of the Karnataka State in India. With the help of appropriate tool and techniques of data have been collected.

4.11.1. The Industries observing the provision of Labour and Industrial-Law in India

1) The Companies Act, 1956:

It is based on the recommendation of the Bhaba Committee which submitted its report in 1952, recommending the whole sale amendment in the Indian Companies Act, 1913, on the basis of the recommendation a comprehensive. Bill was drafted which was passed by the legislature in November 1955, and repeals all earlier Acts, in the year 1948. The main objective of the Companies Act, 1956.

1) The maintenance of a minimum standard of good behaviour and business honesty in company promotion and management.

2) The recognized the legitimate interest of share holder’s and creditor’s and duty management not prejudice those interest.

3) A full and fair disclosure of the affairs of the companies in their published in annual account.

4) Recognised the right of the share-holder’s receive reasonable information and facilities for excising intelligently judgment with refer to management.

5) To establish of an appropriate authority to administration of the Act.  

Labour law’s in our country is regarded is the most dynamic institution. The labour legislation in our country become an important agency of the State for the regulating of the working and living condition’s of the worker’s, as indicated by the raising number and variety of labour laws Act. This rapid development of labour legislation is an integral part of the part of the modern social organization.

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4.11.2. Multiplicity of Labour Law’s:

Labour-Law’s in our country, have been enacted to create condition’s of the protection of Labour from-un-fair employment practices and provide a legal frame-work within a which Industrial Relation is to regulated.

Labour legislation is regarded as the most dynamic institution. From a simple restraint on child labour in 1881. The Labour Legislation in our country has became an important agency of the state for the regulation of working of working and living condition’s of worker’s as indicated by the rising number and variety of labour Acts. The rapid development of Labour Legislation is an Integral part of the modern social organization.

There are about 108 Acts, both central and state, earning our country the dubious distinction’s of being one of the few highly labour legislated countries in the world. What has been the out come of these surely, the result has been endless confusion industrial strike, loss of production and exploitation of the labour by the management and the management of the labour.

4.11.3. Confusion of Labour Law’s:

A study by their my research work underline the diversity of labour law’s and regulation’s in the state can, India ever have a uniform approach to labour law’s? The prospects of this every happening seen extremely law, as study on Labour-Law’s in the argues. Titled “Competitive Labour Policies and Labour Laws in Indian State”.

The report underscores the Sheer diversity of the rules in the state’s consider the following. The state have raised the raised age limit for Labour Court member’s from 65 to 67, and decreased the length of the prior judicial experience required for such appointment from five years to true to two years. The consider the notice period that Employer's are required to provide state government if they want to after working condition’s. The Industrial Dispute Act requires 42 days advance notice.
4.11.4. Unfair Labour Practices:

The majority of the disputes are management inspired the following points justify the ascertain.

1) The management is generally not willing to talk over any disputes with the employees or Trade-Union’s.

2) A management’s un-willingness to recognize a particular pocket Trade-Union.

3) Even when the representative of the Trade-Union have been recognized by the employer, they do not want mega titrates any Industrial disputes.

4) During the negotiation for the settlement of a any dispute. The management create a tension which after lead to a strike, go slow, or lock outs.

5) The management insistence that alone is responsible for requirement, promotion, merit awards. That it is not a consult to employees in regard to any of these regard one who become non-co-operative.

6) Service and benefit offered by the management to its employees, promote hormonies to employer worker relation but a large number of management have not taken any benefits / step to provide these benefits and services for the their worker’s.\(^{35}\)

There are many reason’s for not implemented the Trade-Union Law’s:

According to Constitution of India, 1950, Articles 14 and 19(1) (C) provision not to prevent formation of Trade-Union’s or Association’s not to violate Article 19(C). An association of worker union can surely take various steps for the welfare of its member’s.

After registration of the Trade-Union under the provision Act, 1926. Even through they have many reason’s not to implemented the Trade-Union Law’s.

\(^{35}\) L.S. Kudchedkar, aspects of personal managementand Industrial Relations, 1979, p. 105.
4.11.5. Minimum Wage Act 1948:

The minimum wages vary widely across different states. The minimum wage Act of 1948 was enacted by the Central, but the state are responsible for setting up tripartite minimum wage advisory bodies and they unilaterally declare minimum wage increase in the pursuit of populism. The outcome is predictable. In Maharashtra alone, minimum wage for un-skilled worker’s vary from Rs. 20 to 90.36

In India, the emergency of the Labour Laws proceeded industrial growth. As a result, the person’s who were benefited by such laws represents only a small percentage of the an Industrial revolution, in true sense of the term, leading gradual emergency of the welfare state, no socialist revolution which steels the public sector with a sense of performance yet we have evolved the most advanced Industrial jurisprudence in the world.37

Judiciary has not played a positive role either during the last decade and a half, in the name of directive principle’s, social justice and activist law marketing the judiciary, instead of having a balanced and reasoned consideration of opposing interest, has given a volley of confusing statement, thereby undermining discipline.

It has gone to extent to saying that even an illegal strike, is justified, by those horizon’s are limited, trifles are easily confused with technicality. The result is that indicates in industries has spread like wild five and sapped the national production and productivity. The classical case is that of the textile industry which has been wrecked by indiscipline. The conflagration in continuing to engulf various industries one by one.38

In order to revamp the judiciary, the Government of India set up a IInd National Commission on Labour on October 15, 1999. The commission submitted its report on June 29, 2009. It recommended the followings:

38 Ibid, p. VII.
• To suggest rationalization of existing law relating labour in the organized sector.
• To suggest a umbrella legislation to the un-organisation labours.
• In developing the frame work for its recommendations.
• Minimum level of labour protection.
• Welfare measures.
• Basic institution framework.

It does not help rather, At the state level, the durra curacy Interprets-regulation differently.

In Maharastra for single the minimum wage Law is not applicable to the Electronic Industry, best Labour Inspector in some Industries some district classify electronics units as engineering enterprises, which are covered by the minimum-wage Law.

In West Bengal Trade Union’s affiliated to political parties are wide spread, but in Maharashtra has several independent enterprise level union’s. In Bangalore, several firm’s that operate in the new high technology industries have no Trade Union’s at all. And in Gujarath has seen the rise of the so-called fortpath unionism brief less lawyer’s mobiles seven employees in a organization registered a Trade-Union, pursue their individual grievances in the courts and pocket a sizeable share of any compensation that workers obtain.39

4.11.6. Findings:

The report, therefore, calls for through review of the central and state relation in the space of labour law’s industrial law.

1) A small portion of labour law’s have been observing in India.
2) The employer interpret wrongly a labour legislation in differently wages.
3) Most probably employer not observe the labour and industrial laws in India.

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4) Minimum wage Act, 1948 not probably implemented.

The National Rural Employment Guarantee Act, 2005 originally stipulated that minimum wage would be paid under the scheme. However, in 2009, when some states governments started jacking up their minimum wage rate forcing to union government in (Which trends and NREGA) to sell out more, the centre used its power’s wage Act, 1948. A civil society petition challenged that more in several high courts. Following an adverse judgement in the Karnataka High Court, the centre appealed to the Supreme Court.

Only five states now have minimum wage rate higher than NREGA wages in those states would amount to be Rs. 1,500 crores. The state minimum wage not match it. The workers may wait for the Supreme Court verdict for any further relief.40

2) There are many reasons for not implemented to Trade-Union Law:

According to Constitution of India, 1950, Articles 14 and 19(1) (C) provision not to prevent formation of Trade-Union’s or Association’s not to violate Article 19 (C). An association of worker Union come surely take various steps for the welfare of its members.

After registration of the Trade-Union, under the provision Act 1926. Even through they have many reason’s not to implemented the Trade-Union Law’s.

4.11.7. The Management restrain right organize:

The employer a ways interfere core workmen in the exercise of their right to organize the Trade-Union or assist this Trade-Union the Management resist the implementation of the Trade-Union law for smooth running of the plant and not engage in concerted activities for the purposes of the collective bargaining for protection of the working under the provision of the Acts.

1) The management threatening to workmen with discharge of dismissal of the employment if they join a Trade-Union.

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2) The management threatening to worker’s for lock out and closure of the industrial establishment if the any worker’s initiated to organization of the Trade-Union at organization.

4.11.8. Employer dominate the Trade-Union:

The employer always contributed support of the in financial assistance to Trade-Union leader’s to create rivalry Trade-Union.

An employer taking an active interest in organizing a trade union of his workmen’s and employer showing partiality or granting favour to one of the several union’s attempting to organize his workmen’s or its members, where such a trade union is not a recognized trade-union’s.

4.11.9. To establish employer sponsored Trade-Union’s of the worker’s:

4) Encourage or discourage membership in any Trade-Union by discriminating against any workman.

1) Discharging or punishment a workmen, because he urged to workmen to joint or organized the Trade-Union.

2) Discharge or dismissed of workmen for to take part in any strike, which is being deemed to be a illegal strike.

3) Changing seniority list of the workmen for promotion, because their Trade-Union or active member’s on account of the their Trade-activities.

4) To abolish work of a regular nature being done by workmen and to give such work to contractors as a measure of breaking of strike.

5) The management transfer a workmen malofide from one place to another, under the guise of the following the management policy.

6) The employer always insist upon a individual workmen, who are on legal strike to sign a good conduct bond as a pre-condition in violence and sabotage, the employer may insist for good conduct bond.

7) The management show favouratism or partiality to one set of worker’s regardless of merits.

These are reasons not to implements by the employer Trade-Union Laws
Trade-Union Law’s Implemented or not

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of the Industries in Gulbarga District</th>
<th>Year Estd.</th>
<th>Responded worker’s implement</th>
<th>Not Implement No.</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>Jayapee Cement Pvt. Ltd., Shahabad (ACC) (HMPT), (Zawar)</td>
<td>1925</td>
<td>100</td>
<td>10%</td>
<td>90</td>
</tr>
<tr>
<td>2)</td>
<td>Alstrom India Pvt. Ltd., Shahabad Glb.</td>
<td>1967</td>
<td>100</td>
<td>20%</td>
<td>80</td>
</tr>
<tr>
<td>3)</td>
<td>ACC Wadi Jr. Wadi, Chittapur</td>
<td>1968</td>
<td>100</td>
<td>15%</td>
<td>85</td>
</tr>
<tr>
<td>4)</td>
<td>Rajashree Cement Pvt. Ltd., Malkhed, Sedam</td>
<td>1984</td>
<td>100</td>
<td>30%</td>
<td>70</td>
</tr>
<tr>
<td>5)</td>
<td>Vasavadatta Cement Pvt. Ltd., Sedam</td>
<td>1986</td>
<td>100</td>
<td>15%</td>
<td>75</td>
</tr>
</tbody>
</table>

Positive Implemented
Negative Implemented

Findings:

4.11.10. Opposed the Management:

The employer responses to real wage effects, as opposed to the real effect of unionism on economic-behaviour. The employer thought that Trade-Unionism and collective bargaining have real economic effect on diverse non wage variable which effect the production.

But, finally conclude that the search for understanding of what Trade-Union’s do requires more than standard price the Trade-Union perspectives based on institutional or industrial relations realities. Even they the Trade-Union’s leaders not ready to implemented the Trade-Union Law.

4.11.11. No Collective Voice:

By field study of the Major large scale industries in Gulbarga. Employees realized that collective bargaining by the Trade-Union more benefits by collective voice of the Employees. The management loosing collective voice in the plants. It’s shows that Trade-Union Law not implemented property.

4.11.12. Threatening to Worker:

The management created a well-settled pocket union and creating fearness among the working class due to this reason Trade-Union law not implemented properly.
3) There are many reason’s that have been developed by the Management for declaring an Industry as sick industry\textsuperscript{41}.

**Background of the Act:**

An Act to make, in the public-interest, special provision’s with a view to securing the timely detection of sick and potentially sick industrial companies (special provisions, Act, 1985). The Act protection of Employment, optimize the use of financial resources, salvaging the assets of production, realizing the amounts due to Banks and to replace the existing time consuming and inadequate determination by a body of experts; Navnit R. Kulkarni V/s R.R. Kamini (1989) 66 Comp. Case, 132.\textsuperscript{42}

The Act had been enacted to safe-guard the economy of the country and protect viable sick-units. It objects is to revitalize and rehabilitate sick-industries; testeds Ltd V/s Radhaban Ranchhodlal charitable Trust (1989) 66 Comp. Case 555.\textsuperscript{43}

4.11.13. **Running Plant’s converted into sick industry:**

The ill effect of sickness in the Industrial Companies such as loss of employment of the working class, it loss of revenue to the Central and State Governments and locking up a investible funds of Bank and Financial Institution’s were serious concern to the government and the society at large\textsuperscript{44}.

The alarming of the increasing in the incidental of the sickness of the industrial companies accentuated the concern of the Government and its was recognized that in order to fully utilize the production of employment and optimize the use of the funds of the Banks and Financial Institutions. It would be imperative to review and rehabilitate the potentiality of the liable sick-industrial companies, and to salvage the productive assets and raise the amounts due to bank and financial institution.

\textsuperscript{43} Testeels Ltd. V/s Radhaben V/s Ranchodlal, Ch. Trust (1989) or Comp. Case 555.
\textsuperscript{44} AAIFR order dismiss on 03-03-1999.

IIIrd BIFR Case No. 2/2001 and disagreed on 05-09-2001 by submitting the fall’s documents before the board for Industrial Financial Reconstruction Delhi for the Financial Assistance purpose only.

4.11.14. Fake sick-Industries Case approved as a Fake-Sick Industries Claims loan from Banks:

In the my empirical research work of found that the industries claimed crores of Rupees loan from Bank and Financial institution’s for the improving the industries. But in practicality the entrepreneur not to invest a single paise for the rehabilitation purposes, and amount utilized for personal purposes.

The implemented Co. Ltd., Shahabad district Gulbarga, Karnataka State which belonged to HMP Group, Kolkatta (West Bengal) situated at Shahabad in Gulbarga District. The industry pledged with the Indian Bank, Kolkatta by claiming nearly 40 Crores of public money which DRT order on 23-12-2012 come along with industrial more than 50 crores.46

4.11.15. Indian Bank appealed DRT for Recovery Process:

In applicant Indian filled a petition for recovery of the amount Rs. 50 crores, before the Hon’ble Debt Recovery Tribunal-I Kolkatta under the provision of the 19(1) DRT Act., 1993 and Tribunal Circulate the notice to the HMP Cement Industry, Shahabad, District Gulbarga employer to pay the loan amount Case No. 142 of 1998 Bank appointed a court receiver.47

Findings:

45 2nd Case No. 2/2001 other Balance Sheet.
46 DRT-III Order on 23-12-2012.
47 DRT-I Kolkatta Case No. 142 of 1998 dt. 12-03-2003
4.11.16. BIFR Existing Institution:

It has been the experience that the existing institutional managements and procedures for revival and rehabilitation of the potentially viable sick industrial companies are both inadequate and time consuming.

A multiplicity of Law’s and agencies makes the adoption of co-ordinated approach for dealing with sick industrial companies difficult.

In here our study observed that the HMP Cement Industry, by submitting fall’s document to convert a sick industries, the Board fail should identify the sickness of the industry. On and consisting of the Board expert committee in various revetment field with a power of enquire into determine incidence of the sickness of company shuld be identify and remedial measurement should explained but here in their industries due to the objection of the Trade-Union only the BIFR and AAIFR proposal of the sick company by the management failed.

4.11.17. Farness of Closer among labour:

Now-a-day’s handling labour problem, which is a major contributor to industrial production is one of the most difficult task for the industrialist, because human resources element involved. Labour today is fully aware of their rights. It has, therefore to be handled with a patience, factfull and understanding.

But in this empirical research work the industrialist always threatening to Labour’s and creating his pocket Trade-Union, through union people management creating a fearness among working class if anything will issue raised by any body industries going to be closed and you are going sufferer such a Atmosphere creates by management.

4.11.18. Remedial measurement not taken:

In the industrial establishment the management early detection of sickness, it was generally felt, could go long way in initiating remedial measurement for resorting potential of sick units to health life. Nursing bank
financial institution, labour government, mergers, government take over, so such a remedial measurement not taken by the management here.

4.11.19. Miss Management:

It is observed that HMP Cement Industry Shahabad, Gulbarga. It is also includes a case of deliberate miss management, such as siphoning away funds either to associate concern’s or for personal purposes, deliberate purchase of sub-standard or defective equipment and found to the Indian Bank not repayment of loan’s.

The management failure to move with the time of modernize, equipment to update technology etc., in some time routine maintenance and current repairs are not done.

The management is the diversion of working capital for expansion, for acquisition of fixed assets etc. it is not proper business practice.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of Company</th>
<th>Causes for sickness</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>Jaypee Cement Co. Ltd., Shahabad (ACC, HMP, Zawar)</td>
<td>Miss-Management and Labour Problems</td>
<td>1</td>
</tr>
<tr>
<td>2)</td>
<td>Alstrom India Ltd., Shahabad, Gulbarga (ABL, ABB, ACC)</td>
<td>Market recession</td>
<td>1</td>
</tr>
<tr>
<td>3)</td>
<td>ACC Wadi Jn. Gulbarga</td>
<td>Shortage of Raw Material</td>
<td>No</td>
</tr>
<tr>
<td>4)</td>
<td>Rajashree Cement Pvt. Ltd., Malkhed</td>
<td>Labour Trouble</td>
<td>No</td>
</tr>
<tr>
<td>5)</td>
<td>Vasavadatta Cement Pvt. Ltd., Malkhed</td>
<td>Labour Trouble</td>
<td>No</td>
</tr>
</tbody>
</table>

4) The Industries or factories are closed un-wantedly and illegally:

Background of the Act:

The procedure for closer of the Industries Under the Industrial Dispute Act, 1947 is the procedure laid down in Chapter-V B of the Industrial Dispute Act, 1947, specifically under section 25-O (1) special provisions of this nature were inserted by the Government, keeping in mind the socialistic nature of
Labour legislation in India, to prevent hardship that may be caused by the large-scale termination and retrenchment of the workmen. Consequently it becomes clear that the provision of section 25-O (1) are Mandatory. An employment contract excepting the application of Section 25-O (1) is avoid under Section 25 of Indian Contract Act, as being against public-policy. It has been held by the Hon’ble Supreme Court that when on undertaking employing fewer than hundred person’s is closing, and it is a part of a larger enterprise of more then a hundred person’s section 25-O (1) Industrial Dispute Act, 1947 not Section 25-FFF I.D. Act, 1947 will apply.

Under Section 25-O (1) I.D. Act, 1947, a notice of 90 days must be provided to the appropriate Government, clearly stating the reason for the Intended clouser. A copy of this must also be served to the workmen. Then, the appropriate Government may make enquiries, give the employer, workmen and all interested-parties an opportunity to be heard and grant permission to the Employer to close the Industries based factor’s stated in the section. Clouser of the Industries without their permission is illegal clouser. The order and reason’s of the appropriate Government must be an writing. If no resonse is given by the government in 60 days of the notice being served, the permission shall be deemed to be granted section 25-O (8) provides the compensation payable to on clouser.

Under section 25-O (5) under which the Government may review its order granting or refusing permission or refer to the same to industrial tribunal for adjudication, has been subject of judicial debate as to whether time limit prescribed. Therein is directory or mandatory. The Hon’ble Supreme-Court of India deliberated this in the case of Vazir Glass Work’s Ltd V/s Maharashtra, Ramnagar union. The question before the court was whether General under

48 D.L. Malik, Industrial Dispute Act, Ester Book Company, Lucknow, at 1303.
49 Oswal Agro Finance V/s Worker’s Union (2005) 3 Section 224, 2005, 1223-1117.
50 Worksman V/s S.G. Chemical and O yes (1986) 2 Sec. 624.
51 AIR 1986 SC 1282.
Section 25-O (5) the Government could refer the question of the closure to a tribunal one year after it had passed on order on the same issue, or whether the same became infructuous after a year. The court held that the application for review must be made within a year of the initial order being passed, or the review would be infructuous.

However, the Bombay High Court, seemingly departed from this in Britannia Industries V / Maharashtra General kamagar Union. The question in consideration. Before the court was whether the time limit of one year in Section 25-O (5) I.D. Act, 1947, directory or Mandatory. Despite existing case law on the point the court read share to became and allowed the time limit is one year extended by court or tribunal similarly, the court also held that time limit period 230 days specified in section 25-O(5) is not mandatory and an award passed after 30 days is not nullity.

**25-O (6) I.D. Act, 1947:**

Where no application for permission under Sub Section 25-O(1) I.D. Act, 1947 is made within the period specified their in, where permission of the clouser has been refused, the clouser of the Industry shall be deemed to be illegal V/s 25-O (6) I.D. Act, from the date of clouser and the workmen the law for time being in force as it the under taking had not been closed down.

Such interpretation has been approached the court under Section 33-C (1). Industrial Dispute Act, 1947 allows for workmen to recover money due to them from employer V/s 33-C (1) clearly stated that when management is due to workmen from the employer under settlement or Award under provision V/s Art-13 the workmen should make an application to the appropriate Government it the government satisfied that money is due, it shall issue a recovery certificate of that amount to collector.

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It seems logical that workmen should resort V/s 33-C (1) I.D. Act, to demand his clouser compensation, there have been cases which have applied 33-C (1) I.D. Act to instance of clouser.\(^{54}\) In the management of Junkurdar collery V/s Usahdeo Thakur.\(^{55}\) The Patna High Court held that V/s 33-C (C2) the court was even competent to took into the factor’s relevant in deciding whether compensation was payable, and deciding. That may be made against the use the V/s 33-C (C1) I.D. Act is that section applies only to workmen as per section 2 (S) I.D. Act, 1947.

**4.11.20. Illegal Closer of the Industry:**

The management of the HMP Cement Co., Ltd., Shahabad dist. Gulbarga Karnataka Company has been closed down on 07-12-1997 starting that it was not in a position to running the industry without any permission of these appropriate government.\(^{56}\)

The management of the HMP Cement Co. Ltd., Shahabad, District Gulbarga, Karnataka State closed down the industry on 07-12-1997 stating that it was not in a position to running the industry.\(^{57}\)

**4.11.21. Trade-Union Challenged Closure:**

The president of the Shahabad Cement factory worker’s union (AITUC) district Gulbarga, Karnataka State, challenged the management for illegal closure of the Industry before the Hon’ble Deputy Commissioner of Labour Gulbarga in Karnataka. An application for recovery of Employees Wages V/s 33-C (1) Industrial Dispute Act, 1947, in respect of the respect of HMP Employees for the period from 07-12-1997 to 31-12-2007 for the violation of the section 25-O(1) of Industrial Dispute Act, 1947.

The worker’s Trade-Union requested to Deputy labour Commissioner Gulbarga Commissioner Gulbarga to claim to clear wages of the 858 employees

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\(^{54}\) Supra Note, 8.
\(^{55}\) 1974 LIC, 417.
\(^{56}\) Sajjan Malleshi, President of Trade-Union before DLC, dated 03-02-2003.
\(^{57}\) Public Notice of the Industrial Notice Board Shahabad.
of the a claim of 30,75,71,335/- kindly issue the recovery certificate of that under the Land Revenue Act. Through that Deputy Commission of Gulbarga for non-payment of wage V/s 33-C(1) I.D. Act I.D. Act, 47. The Deputy Labour Commissioner Gulbarga, District, Karnataka State passed the order on dated 18-05-2003 it is an illegal closure of the industry V/s 25-O(6) I.D. Act, 1947 and paid Rs. 30,75,71,335/-.

4.11.22. ABL Company illegal Closed:

Due to the financial crises of the Alstrom Babadcek Ltd., Company Shahabad, Gulbarga, Karnataka had been closed illegal on 1986.

Hon’ble Minister of Petroleum, Government of India (Late.) Sri. Veerendra Patil raised the issue before the parliament and initiated revival of the industry at that time S.K. Kanta, Minister of Labour, Karnataka taken keen interest to review the industry.

After struggle of the working class and by the effort of the Trade-Union leader A.B. Das re-started the industries in the year 1988.

The 20 month illegal closer settlement was take place between the management and worker union’s that is 50% of wages should be paid immediately and 25% of the wage should paid after 5 year’s and remaining 25% of the wage should be sacrificed by the working classes for the revival of the industry. 59

Findings:

4.11.23. Employer closed industry unwanted:

With the knowing the industrial law the employer without following any rules or law closing the industry unwantedly before closing the industry. The employer should communicate with working class Trade-Union leader’s to explained the problem’s of the industry. Something settlement should be taken in both side, it will help to the employers employees also.

58 Malleshi Sajjan, President of Trade-Union (AITUC) Challenge before DLC on Dated 03-02-2003.
59 Mr. Padmaji, President of the Union, AISL (Administration) Interivewed.
4.11.24. Intention of the Employer is bad:

Here we observed that intention of the employer is however the industry auction sale notice, because employer earn more money from the industry and he claim’s Huge crores of the rupees loan amount in the Bank and Financial institution’s so having no interest to running the plant.

4.11.25. Litigation in the court of Law:

The employer with a bad intention closed the industry illegally because our judicial system is very benefited to employer’s. Employer moving one court to another court and tribunal lastly it will take near 10 to 12 year to settled the issue’s if the Trade-Union leader financial strong other wise every one Trade-Union have to leave it court only, whatever the decision should be delivered by the court the judicial system so totally wrong system.

5) There are many impact and implications due to closure of the industries:

I observed that due to the closure of the industry like HMP Cement Shahabad, Gulbarga and Alstrom India Ltd., Shahabad, Gulbarga. It will impact very hard days for the working classes detailed, I have been also realized and observed too.

However in the recent year number of industries closed in the year 1997 such as HMP Cement Company Ltd., Shahabad Gulbarga and ABL Shahabad, Gulbarga in the year 1986 had been closed the impact of the closure of the industries are as follows.

4.11.26. Mental Threat:

After closure of the both industries in Shahabad district Gulbarga. The permanent on employment poses to real threat mental health. Men and women’s afraid of the un-employment, that it is not mean’s loss to money it is loss to face also.
During the closure period nearly, 150 employees have been expired due to non-availability of mean’s to earning for their lively hood. Most of employees due to mental imbalance, most of them committed suicide for Exam. (Late) Sri. Basanna S/o Shankrappa on 28-06-2003 crime No. 7/2003, Town Police Station, Shahabad, V/s 174 Cr. PC. And Com. Bhimsingh Singhe, General Secretary of the Shahabad Cement factory Worker Union (AITUC) due to mental-ill-health he has expired on NIMANS Hospital, Bangalore.

4.11.27. Social imbalance:

The lack of work bring’s down their social status and self-respect that is why the people who retired from service very much varied for work is regarded by many moral and economic necessity of the life.

The industrial relation is dynamic socio-economic process impact of the closure the employees of the industries their family member’s suffered their lively hood. Further they contained to discontinued and stopped their children education inspite of there children are being meretricious student cannot seek admission in school and colleges due to financial crises being faced by the families.

Due to the closure of the industries the parent in the society unable to settle the marriage of their young daughters. Some of the employees for survival of their life they were begging money in the street, out side the town with wearing un-identified dresses due to the self respect.

4.11.28. Idle mind Devils Workshop:

After closure of the industries the worker’s become an un-employees due to un-employment the worker’s become an idleness. Due to the un-employment of the employees because illness, so their idle mind work’s wrong deeds it leads affect the whole society.
4.11.29. Anti-social Activities:

During the closure of the industries as a result the youth’s individual indulged in anti-social element activities and lead un-disciplined life. The generally killing the time they formed their own small groups moved aimless rounds in the street most of them become a doll’s of the politician’s.

They spend much time reading pornography, book’s smoking, drinking alcohol, gambling and teasing girl’s consequently they become demorlised and indisciplained all above impact can be found in the closure of the industries.

4.11.30. Migration of Labour:

Due to the closure of the industries the more employees depends upon the industries with result that their un-economic holding poverty and un-employment unable them to leave the industrial town in search work for lively hood. Industrial population shifted from Shahabad (Karnataka) to Mumbai (Maharashtra) Hyderabad, Bangalore etc., for search of the work for lively hood of the employees.

Findings:

4.11.31. Economic Depression:

The impact of the closure of the industries. Due to un-employment of the closed industries employees became more depression worker unable to earn minimum wages in the surrounding of the industrial town for their family lively hood. The number of the employees migrated in search of employment.

4.11.32. Impractical Government Policy:

The 26 session of (ILO) International Labour Organisation in Philadelphia in 1944 adopted two recommendation dealing with social security
measure to the worker’s income security and medical security to provide basic income to all working classes.

4.11.33. Indian Constitutions:

Art 38 ensure that the State shall strike to promote the welfare of the people by securing the as effective as it may social order in which social justice, economic and political shall inform the all institution for nation life and Act 39 of the constitution of India notice provide adequate lively hood of the people of the India.

4.11.34. No medical aid:

After closure of the industries impact is that none of government agencies came forward to help the poor employees, due to some dishes the employees expired due to non-availability of the medical aid of the employees which is meant for the workers as ESI and any government agencies of the State not helped the working classes which was closed industry team.

6) There is great role to be played by the Trade-Union for the efficient and effective working of the Industries / Factory and also for revival of the industries:

I have been observed by empirical study of the thesis the role of the Trade-Union played very important and crucial role by efficiently and effectively in the Gulbarga district large scale industry and by the effort of the Trade-Union’s two companies are reviewed in the Shahabad, Gulbarga District, Karnataka, Alstrom India Ltd., Jaypee Cement Ltd., Shahabad.

4.11.35. Role of the Trade: The Shahabad Cement, Factory worker’s Union (AITUC) played very important role for protection of the working class and re-
start the industry which was closed since 9 year in the year 07-12-1997 to 06-12-2006.

4.11.36. Union challenged illegal closure: The Shahabad Cement Factory worker’s Union (AITUC) district Gulbarga, Karnataka union challenged the management for illegal closure of the industry before the Deputy Labour Commissioner Gulbarga Karnataka on 03-02-2003. Trade-Union provide that closure is illegal under the provision I.D. Act., 25 O (6) I.D. Act, 1947.60

4.11.37. Trade-Union Impleaded party before DRT Kolkatta: The employer of the HMP Cement Ltd., Shahabad district Gulbarga, Karnataka. The security property of the company placed before the Indian Bank by claiming loan amount is Rs. 34,26,33,954.17 large claim public amount which may come nearly 50 crores.

The Indian Bank filled a petition for DRT-I recovery of the amount 50 crores before the Hon’ble Debts Recovery Tribunal-I, Kolkatta, DRT-served notice to the employer to pay loan amount by the Indian Bank.

President Mr. Malleshi Sajjan the worker Trade-Union’s want to be impleaded as a party in this case No. 142- of 1998 Debt Recovery Tribunal-I, Kolkatta for representing the outstanding claims of the worker’s against the employer.61

Industry Auction for Sale:

4.11.38. Order No. 38 dtd. 23-12-2002, Case No. OA/142/1998:

As per the Hon’ble DRT-I Kolkatta directing the under signed receiver to sell, with the prior approval of years has through public auction. The receiver

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60 Sajjan Malleshi, President of AITUC on 03-02-2003.
published the enclosed sole notice “The Hindu in English the Economic Times, and visited the HMP Office.

As the properties of the defendant no HMP Cement Company are advertised for sale, the claim of the worker’s union for impleadment is legitimate under the law for proper adjudication and satisfaction of their legitimate claim’s.

Trade-Union are also submitted their authoriticated and duly certified claim’s of their wages by the concerned competent authority in due course of time before the distribution of the sale proceeding so that their legitimate rights can be protected.62

4.11.39. Joint Compromise by Employer:

The employer of the HMP Cement Ltd., Shahabad, Gulbarga brought joint compromised order from the Hon’ble High Court of Kolkatta Case No. AST No. 1485-89 of 2004 by Hon’ble Bhasker Battacharajee.63

4.11.40. O.A. No. 142/98 Debt Recovery Tribunal is directed to immediately Transfer to DRT-III:

Hon’ble High Court depicted that under closure (K). The company should ensure settlement of the issue raised by the worker’s union. The statutory due to government and other department.

4.11.41. Union Challenged joint petition:

The Shahabad Cement Factory union (AITUC) challenged judgment passed by the Hon’ble High Court, Kolkatta on the basis of the order of High Court Debt Recovery Tribunal-III passed order No. TA No. 9/2004.

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63 Hon’ble High Court Kolkatt AST No. 1485-89, 2004.
A worker union president Mr. Sajjan Malleshi challenged application before DRT-III Kolkatta under Section 22 (2) (e) of the recovery of the debt due to bank and Financial Institution Act., 1993 (Act. No. 21 of 1993).\textsuperscript{64}

The worker’s union submits impleadment of the one of the respondent submitted a object as such without affording an opportunity of being heard the in disputes it would amount to violation of nature justice and violated of Article 21, 39A, of Indian Constitution it is settled law in Decision of the Hon’ble Supreme Court reported in AIR 1978 Supreme Court page 597 para 56 to 68 is the case of Menakagandhi V/s Union of India.\textsuperscript{65}

And worker’s union submitted before the Tribunal’s in accordance with section 19 (19) of Debt Recovery Tribunal Act 1993 read with section 529 (A) of the company Act. 1956. The tribunal to ensure that no secured or can secured creditor’s including bank and financial institution are paid before the work’s men’s due are paid as held in the case of National Textile worker Union V/s P.R. Ramkrishnan AIR 1983 SC 75.\textsuperscript{66}

\textbf{4.11.42. Revival of the Industry:}

The final order Appeal No. 1 (V/s – 30) 2005 dated 30 Oct. 2006 on Mr. Zawar Cement Private Ltd., on coming to know of the desire of the Tribunal made an offer’s for purchase of the said industry as a going concern along with the liabilities payable to the worker dues.

Hon’ble DRT-III, Kolkatta, Final order on 28 November, 2006 sale has been conducted the employer agreed to paid the 10% of the against the recovery

\textsuperscript{64} Provision of Trade-Union Challenge the Joint Petition.
\textsuperscript{65} Menekha Gandhi, Union of India.
\textsuperscript{66} National Textile Worker’s Union V/s P.R. Ramkrishna, AIR, 1983, SC 75.
certificate passed by DLC-Gulbarga and duty should be resumed those worker’s on the role of the company.

Findings:

4.11.43. Effective role of the Trade-Union:

After observation empirical methods of court proved that the Trade-Union played very effective role played for the protection of the working class of the Shahabad Cement Industries.

4.11.44. Trade-Union Worked Efficiently:

In the judicial battle between the employer and worker’s Trade-Union’s fought a legal battle before the Hon’ble High Court of the Kolkatta and Debt Recovery Tribunal Kolkatta the union office bearer’s worked with a good efficient manner’s.

4.11.45. By the Effort of the Trade-Union Industry Reviewed:

TO GO ON-STREAM: Workers attending to machines that were idle for nine years at the Zawari Cement Factory at Shahabad in Gulbarga district.

The Trade-Union effort to re-started the industry which was closed since 1997 nearly 9 year. It is an a big achievement of the Trade-Union. Now the
revival of the new promoter a big industrialist Jaypee Group investing nearly 500 crores rupees for new project in Shahahbad, Gulbarga District.\textsuperscript{67}

**Methodology adopted for the Research Study**

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<th>Objectives</th>
<th>Methods</th>
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<td>1) To collect primary data to understand factories observing the following provision of labourer and industrial law in India</td>
<td>By using historical philosophical bases utilizing literatures various sources books, journal etc.</td>
<td>Attitude of the Employer to interpret the law.</td>
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<td>• Some 50% observe</td>
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<td>2) To understand that find out not to implement the Trade-Union Act, 1926 in efficient and in effective.</td>
<td>Interview with Trade-Union leader</td>
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<td>• Create fearness among working classes</td>
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<td>3) To understanding and exam reason for declaring sick industries</td>
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<td>6) To understand the role of the Trade-Unions protection of the working class in Gulbarga district</td>
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4.12. Conclusion:

In this chapter to conclude that the different scholars look upon a concept of trade unionism from different view points. Primarily, trade unions are organizations of workers, which work for the maintenance and enhancement of their economic status by insisting on rise in many ways, and working conditions, and other facilities and benefits.

According to Samuel – Gampers a founder president of the American Federation of Labour (AFL) is concept of the Trade-Unionism is that the trade union born for the protection and defend themselves for exploitation of the employer they will protect there analityable right for higher and better life.

According to the Karl Marxian approach to the Trade-Unions is struggle between employer and employees its viewed as a revolution and politically organized one. It has social revolution goal of capturing the government. This concept of the trade union is based on idea of the class struggle. The emergence of the trade unionism is spontaneous and inheritant in the growth of the capitalism, he felt that trade union is rebuilding of the society.

Robert – Hoxie: An American economist, goal solid concept of regarding the Trade Unionism. It is a solid psychological interpretation to the trade unionism it is nothing bent on group psychology.

Seling Perlm’s: The trade union morality as the most vital factor shaping the form of labour movement. He express the trade unions struggles constantly not only against the employers for security, measured income, liberty it is actively. Intellectuals who would frame its programme and shape its politics.

Gandhiji – he is view Trade-Union are considered to be as a moral Institution aiming at making the workers better industrial and responsible.
citizens. The trade union’s are considered to be institutions experimenting with industrial democracy.

The best agency which the workers can employ to deals with labour problems in their own organizations is the trade unions the primary role of the worker union to solve the labour problems. It can, through organized section eliminate exploitation and provide better condition of life, and revival of industries.

By testing of the hypothesis – trade union role for the protection of the working class a case studies of the Gulbarga districts. Five large scale industry it is proved in the several them it’s an legitimate instrument for the protection of working class and concluded that how the Trade-Union can reviewed in the sick industries in Gulbarga district, Karnataka state in practical experience elaborated.