Chapter 5

BOMBAY INDUSTRIAL RELATIONS ACT

ORIGIN

The BIR Act 1946 which has set a pattern of Industrial Relations Law in the Country is not any copious lifting of provisions of any other act but is an outcome of experiences extending over 30 years which were gained from dynamicity of approach and improvement by trial and error system. Many of the provisions of the Act seem to have been borrowed from some of the Latin American Laws like Labour Codes of Panama, Guatemala, Costa Rica, El Salvador etc. The legislative measures at State level began in the erstwhile State of Bombay with the introduction of the Trade disputes conciliation act of 1934 which provided for an appointment of a Govt. Labour Officer to watch the interest of the workers. It also provided for a commissioner of labour to be an ex-officio Chief Conciliator and a special asst. conciliators. It also provided for the conciliator to report to Govt. about the agreements reached. Then came, the Bombay Industrial Dispute Act of 1938, which provided for registration of the Union. Registration under the Act conferred certain rights. This Act also provided for Labour Officers and conciliators appointment for different areas or industries. It also provided for reference of disputes to various authorities. It classified matters affecting employees in schedules I and II and provided a set of rules called Standing Orders. Based on this model, was enacted the Bombay Industrial Relations Act of 1946 with the twin objectives of 1) Industrial Peace 2) Economic Justice

In order to understand the origin and philosophy of this legislation it is necessary to first have an idea of what an Industrial Relations Law is about.

An Industrial Relations Law can be understood as a mediating agent which only transforms a conflict based interaction between the two contending groups for power over the production process into an interaction based on negotiations. It provides a frame work of procedures, principles and assumptions to circumvent direct conflict and where conflict is unavoidable, it provides rules to assess the relative strength of each group to minimize the complete halt of production process. It is only in order to provide a framework for continuous negotiations between parties that stand on unequal footing that this law asserts a notion of formal equalities between these two groups.
One interesting question that naturally comes to our mind is why the workers accept this kind of law that does not change the power balance between capital and labour in society. Different studies in sociology of law as explained by Sujata Patel in her work "The making of industrial relations" provide explanatory, theoretical framework to understand this process. They use the concept of "Hegemony" or mobilization of consent to understand the means through which subordinated groups accept domination. Hegemony is a process by which power and ideology are used by one class through the means of consent and coercion to maintain its domination. If this concept is applied to IR Law, it is possible to distinguish between two types of processes leading to formation of this law. One is where workers are part of the norm definition and the other is where the law is imposed on them.

The BIR Act can be described as a kind of hegemonic IR Law in which the workers as a class were mobilized with the help of a particular ideology to adopt collaborationist approach in place of antagonistic approach. In order to achieve this the dominating class takes help of various ideological elements. The imperial situation in India can be described as a backdrop political economic context in which both the classes were struggling against the imperialism. The capital class especially in the textile sector in the Western Region was constantly pressurized by the State and it perceived its economic interest as contradictory to the imperial economic interest. This was because the goods produced by the Sector came in direct competition with Lancashires leading to conflict with the imperial State. Also the Indian capitalist class historically has developed as an independent one and not as a subordinate to the State. Both these reasons played an important role in acceptance by the Capitalist of certain ideological elements which resulted into formal enactment of some of their accepted procedures for regulating industrial relations in the former Bombay State. These processes for regulations of Industrial Relations had their roots in the Gandhian ideology for resolution of disputes between labour and capital which laid greater emphasis on arbitration. As some authors have pointed out that not only Gandhiji had great faith in arbitration for resolution of disputes but he could convince the workers about the effectiveness of this ideology. Being the leading national leader he exerted moral pressure on the class of capitalist also. As pointed out earlier the capitalist class was already under economic pressure as well as pressure from the labour class. The threat of emergence of leftist trade union movement at this point of time helped the TLA (Textile Labour Association) to become a representative union in the Textile Industry and formal acceptance of arbitration machinery which situation was legitimized when
Bombay Industrial Disputes was passed in 1938. The dispute resolution machinery that was formalized and legitimized by this enactment was arbitration which had its root in the "Panch" tradition of the pre-colonial period. However, with substantial changes in the social power structure that was emerging in the new economic order modifications were made in the institutionalized version of the arbitrator. Rather than having a representative of the class of capital, i.e. "Nagarsheth" as mediator the new system of arbitration centered around mediation in conflicts by the State aided by the representatives of the two conflicting groups. This was a major shift from the pre-colonial times to the emerging economic order.

**SCHEME OF THE BIR ACT, 1946**

This legislation lays greatest emphasis on the principles of collective bargaining and embodies the same in the provisions of Chapter 3 and 5 of the Act which provide for separate registration of the unions under the Act, over and above their registration under the Trade Union's Act, 1926. Sections 13 and 14 of the Act envisage registration of only one union for one industry for one local area. Section 11 provides for recognition of any concern in an industry to be an undertaking and any section of undertaking to be an occupation. Section 12 requires the registrar to maintain a register of the unions and a list of approved unions. The scheme of Section 13 give preference to a union having 25% of the total employees employed in an industry in the local area as its members for registration as a representative union. Only if no such union is available can a union having 5 percent of the total employees of the industry as members be registered as a qualified union. And if both of these are not available then a union having a membership of at least 15% of the employees employed in any undertaking, can be registered as Primary Union. These provisions along with the provisos of section 14 and particularly the third proviso make it clear that the act prefers to register union having largest membership of the workers in the Industry to be registered as the only union for a particular industry for a particular local area.

Chapter 5 contains provisions conferring status of sole bargaining agent on behalf of all the employees employed in an industry whether members or not on the representative union or in its absence any registered union. Section 27 A provides that no employee shall be allowed to appear or act in any proceeding under the Act except through the representatives of employees. The term "Representatives of Employees " is defined in section 3(32) to mean those entitled to appear or act as such under Section 30. Section 30 gives a list of representative of employees in the order of preference specified and
the preference is given to the representative union. Thus the representative union has full authority to represent all the employees employed in all the undertakings of the industry in a particular local area even though it may have only 25% of such employees as its members.

The exceptions to these general rule are provided in Sections 32, 33 and 33 (A). Sections 32 and 33 make an exception in cases of proceedings under the Act where an employee seeks to challenge the legality and propriety of order of dismissal, discharge, removal, retrenchment, termination of service or suspension. Thus in cases involving economic death of an employee these two provisions give him a right to be represented by any union or a legal practitioner. The second exception provided under section 33(A) is in cases of disputes between employees and employees. In such cases the representative union can be heard only if the court permits on an application made by a representative union for that purpose.

This scheme of the act was considered by the Supreme Court in the case of Santuram Khudai Vs. Kimatrai Printers Pvt Ltd (AIR-1978-SC-202). In this case, after discussing the scheme of the Act the Supreme Court held that once the representative union enters appearance in any proceeding under the Act, no other union or employees themselves have any right to appear into the same.

In another land mark case of Balmer Lawrie Workers Union Vs. Balmer Lawrie and Company Ltd (AIR-1985-SC-311). The Supreme Court held that the representative union has a right to collect contribution for the union from the amount of arrears payable to the workers even from those who are not its members because even the non-members will get the benefit of the settlement entered into by the representative union. The implication of this far reaching decision goes a long way in strengthening the representative union financially which is a must for effective bargaining position and provides solid support to its position as a sole bargaining agent.

Section 25 of the Act provides for rights of officers of approved union. This provisions empowers the representative union and its officers to collect the membership subscription, to put up the notice board, to visit and inspect the place and hold discussions with the employers for prevention or settlement of industrial disputes and to defend an employee in the departmental enquiry. Section 26 entitles an approved union to legal aid in important cases. These two sections give special rights to the representative union under the Act in order that the representative union can play its
The Act defines an industrial dispute in Section 3(17) to mean a dispute or a difference between parties which is connected with any industrial matter. "Industrial Matter" is defined in Section 3(18) in widest possible term to encompass every conceivable dispute between the parties arising from the relationship of master and servant. The act has divided industrial matters in three schedules appended to the Act and provides for different machinery for resolution of disputes in respect of matters specified in each of the schedules. It is necessary to emphasize that there can be industrial matter which would fall under the definition clause but may not find place in any of the schedules.

Schedule 1 contains matters in respect of which standing orders are required to be settled under chapter 7 of the Act. The last section in the said chapter Section 41 provides that the provisions of the Industrial employment (standing orders) Act of 1946 shall not apply where this chapter applies. Sections 35 to 40 provide for a complete machinery for settlement of standing orders, appeals and review and for alteration of standing orders once settled. The disputes arising out of the orders passed by the employer under the standing orders are within the jurisdiction of Labour Court under section 78(1A)(a)(i) and similarly the disputes arising out of application and interpretation of standing order also within the jurisdiction of the Labour Court under clause (ii) of the same provision. Schedule II of the Act contains matters generally affecting large number of employees and which are therefore regarded as more likely to generate industrial unrest. The Act therefore provides for a three tier machinery for settlement of the disputes in relation to industrial matters specified in schedule II. Chapter 8 of the Act beginning from section 42 provides that if an employer desires to effect a change in any of these matters, he should give a notice of change whereas section 42 (2) provides that if a representative union desires a change in matters not specified in schedule 1 or 3 they shall also give notice of change. Section 44 of the Act provides for time to the parties to arrive at an agreement regarding change desired by either of them. If no agreement is arrived at within the time prescribed, the party which has desired the change may commence conciliation proceedings u/s 54 of the Act. This is the first tier of disputes resolution machinery where the conciliators or board of conciliation intervenes and try to mediate between the parties to bring about a
settlement. The Act prefers this mode of settlements and therefore gives it preference over other modes.

Section 60 of the Act provides for powers of conciliator and the board of conciliation. If the conciliation machinery fails to resolve the dispute, the Act offers voluntary arbitration as the next preferred mode of settlements of disputes. Under Section 66 of the Act in Chapter 2 the parties can submit their disputes to arbitration of any person. The arbitration act of 1940 does not apply to arbitration under this chapter as per section 68. Section 71 provides that if no arbitrator is appointed the dispute is to be referred to labour court or industrial court. Section 72 empowers the State Government to refer a dispute between employees and employees to the Labour Court or Industrial Court. Section 73 empowers the State Govt. to refer any Industrial dispute to the arbitration of industrial court if it is apprehended that the same will result in a serious situation. Section 73 A is an important provision which empowers the representative union to make the reference of an industrial dispute for arbitration to the industrial court. Under the Industrial Disputes Act of 1947 the workers are at the mercy of the appropriate Govt. which u/s 10 of the Act decides to refer or not to refer a dispute to the Court for adjudication.

The third tier or the last mode of settlement of disputes is through adjudication where both the earlier modes have failed to resolve the disputes. The Act provides for establishment of Labour Court and Industrial Court with separate and with distinct jurisdictions regarding industrial matters. The Labour Court has the jurisdiction in respect of industrial matters specified in Schedule 3 and matters arising out of orders passed by employers under standing orders and application and interpretation of standing orders. It can also decide industrial disputes referred to it for arbitration. The Labour Court can also decide whether any strike, lock out, closure, stoppage or any change is illegal under the Act. The jurisdiction of Labour Court is to be found in sections 78 of the Act. It also has criminal jurisdiction to try offenses punishable under the Act.

The Industrial Court has four kinds of jurisdiction under the Act which are to be found in Section 87 of the Act. Firstly it has the original jurisdiction to decide matters referred to it for arbitration or adjudication. It can also decide references under section 99 to decide the validity of the proposed strike. Secondly, it has appellate jurisdiction to decide appeals from other authorities like registrar, commissioner of labour, wage board and labour court. Thirdly it has advisory jurisdiction under which it advises the
other authorities and renders its opinion regarding important questions of law referred to it by those authorities. Fourthly it has revisional jurisdiction over Labour Court as far as interim orders are concerned. It also has supervisory jurisdiction over Labour Courts. As far as matters specified in schedule 3 are concerned, section 42(4) of the Act provides that an employee has to given an approach notice to the employer within 6 months from the happening of the matter in dispute and after waiting for 15 days for the employer to agree to the request approach the Labour Court within three months thereafter. Thus the act provides for an elaborate machinery for resolution of industrial disputes which if properly utilized is sure to pave the way for peaceful settlement of disputes.

AUTHORITIES UNDER THE ACT

Chapter 2 of the Act provides for authorities to be constituted under the Act. Section 4 provides for the appointment of Commissioner of Labour, Section 5 is for appointment of Registrar and an Asst. Registrar, Section 6 makes provisions for appointment of conciliators and board of conciliation is to be appointed under section 7. Labour Officers and Asst. Labour Officers are appointed under section 8, Labour Courts are constituted under section 9 and Industrial Courts are constituted under section 10. Over and above these authorities the acts provides for constitution of Court of Enquiry which is a fact finding authority under section 100 in Chapter 15 of the Act. The Act also provides for constitution of the Wage Board under section 86 AA of the Act in Chapter XIIA of the Act. This chapter provides for complete machinery for making a reference to the wage board by registered unions, its decision, appeals, review and superintendence of industrial court over the wage boards. The act also provides for constitution of a state wage board under section 86 L in Chapter XIIIB. The act provides for the constitution of joint committees in Chapter 9 and joint management councils in Chapter 9A. It can be seen that the Act is complete code on its subject matter and makes detailed provisions for constitution of various authorities which are likely to be involved in performing various functions under different provisions of the act which are aimed at peaceful and smooth settlement of industrial disputes.
PROVISIONS REGARDING PARTICIPATIVE LABOUR MANAGEMENT RELATIONS

The provisions of the Act giving an opportunity to the employees to ventilate their grievances before the representatives of the management and participate in decision making process directly affecting them are to be found in Chapter 9 and 9A.

Chapter 9 consists of section 48 to 53 which provide for constitution for composition, proceedings and decision by the joint management committees. Section 48 provides for constitution of a joint committee for every undertaking or occupation. The representative union is given a right to demand constitution of such committees. The joint committee is composed of equal number of members from employees and employer under section 49. The chairman is also required to be appointed in accordance with the rules. Under Section 50 the representative union has a right to attend the meeting of the JMC. Under section 51 any member of the JMC can propose the change other than a change in any standing orders. Section 52 provides for recording of agreements arrived at during the proceedings of the committee. Section 53 A of the Act provides for constitution of JMC in large undertakings employing 500 or more workers. Such a council consists of representatives of employers and employees who are equal in number. The representatives of employees on the council are required to be elected in the manner prescribed in the rules. The Chairman of the Council is to be appointed from amongst the members. Section 53 B provides for functions of the council. It is the general duty of the council to promote and assist in the management of the undertaking in a more efficient and economical manner. For that purpose the council has the duty to promote cordial relations, to build up mutual understanding, to promote measures to increase the productivity, to secure better administration of welfare measures and safety measures and training the employees. Thus, through this council, the employees get an opportunity of participating in the management of the undertaking to some extent and certainly get a forum or a platform through which they can voice their grievances and also share the responsibilities of the management.

With this background and after this brief analysis of the scheme and objectives of the BIR Act, it would be useful to examine now various aspects of trade unionism in the representative union of the electricity industry in Ahmedabad. As can be seen from the above discussion power and position of the representative union has a unique place
under the BIR Act and this case study involves a situation of single undertaking industry in a particular local region and different aspects of trade unionism in such a situation can give useful insight into understanding structure of labour relations in power industry within a special legal set up.

Power is a vital input for economic activity. Any economic policy is expected to stimulate the face of agricultural industrial and social development centres. Availability of adequate power at affordable costs has become urgent to sustain the liberalization process. In India at the beginning of the 90s, 89% of the power sector was controlled by Public Sector. During the 10 years, sixth and seventh plan period, the generating capacity in utilities and non-utilities increased by 120%. In spite of this at the end of 7th plan, there was power shortage of over 9.4% in energy and 19% in peak demand. Under the statutes governing electricity sector in India namely the Indian Electricity Act of 1910 and Electricity Supply Act of 1948 only the State Governments and State Electricity Boards have the responsibilities to fulfill the power requirements of the geographical area under their jurisdiction. Looking to the functioning and capacities of State Electricity Boards, supply oriented reforms were undertaken by the Centre from 1975. A series of Central Power Generation Corporations like National Thermal Power Corporation (NTPC), National Hydro Power Corporation (NHPC), Neyveli Lignite Corporation (NLC) etc. were set up to augment the power generation capacity in different parts of the country. In spite of these efforts at the beginning of 8th plan against the estimated shortfall in supply by 48,000 MWs, the capacity likely to be added in the Public Sector was only about 23,000 MWs. Solution thought of was involving private sector in power generation.

The Hydal-Thermal mix ratio in the installed capacity was declining over the years from 40:60 at the end of 1979-80 to 29:71 at the end of 1989-90. Optimizing study on long term power planning revealed that without adequate hydal backup the overall cost of meeting the power demand is very high and it would be necessary to take corrective measures towards a better thermal hydal plans.

Against this background of power situation in our country, this study has concentrated on a company which has been in the private sector for a long time and covered by Bombay Industrial Relations Act.
AHMEDABAD ELECTRICITY COMPANY –
Background Information

The Ahmedabad Electricity Company Limited was incorporated on 28.05 1913 as a company by Killick Nixon Limited for conducting the business of Electricity supply. The electric supply operation were commenced in 1914 with a small diesel power station of 2x50 KW diesel alternator sets. The company has developed an effective capacity of 410 Mws and installed capacity of 450 MWs. 100 MW combined cycle gas based power plant is being constructed at Vatwa by the company. With that the installed capacity is 550 MWs and derated capacity is 460 MWs.

The growth and development of the company over a period of 80 years is indicated in the following table.

Table 5.1
An overview of the growth of the AE Co. Limited

<table>
<thead>
<tr>
<th>Year</th>
<th>Fixed Assets (Net Rs. in lakhs)</th>
<th>% increase</th>
<th>Units sold (millions)</th>
<th>% increase</th>
<th>No. of consumers</th>
<th>% increase</th>
</tr>
</thead>
<tbody>
<tr>
<td>1915</td>
<td>4.5</td>
<td>-</td>
<td>0.5</td>
<td>-</td>
<td>261</td>
<td>-</td>
</tr>
<tr>
<td>1925</td>
<td>34.22</td>
<td>660.44</td>
<td>2.19</td>
<td>338</td>
<td>2032</td>
<td>679</td>
</tr>
<tr>
<td>1935</td>
<td>60.76</td>
<td>77.56</td>
<td>10.32</td>
<td>371</td>
<td>5477</td>
<td>170</td>
</tr>
<tr>
<td>1945</td>
<td>131.11</td>
<td>115.78</td>
<td>105</td>
<td>917</td>
<td>20707</td>
<td>278</td>
</tr>
<tr>
<td>1955</td>
<td>1108.94</td>
<td>745.81</td>
<td>486</td>
<td>363</td>
<td>42833</td>
<td>107</td>
</tr>
<tr>
<td>1965</td>
<td>1723.63</td>
<td>55.43</td>
<td>1051</td>
<td>116</td>
<td>128614</td>
<td>200</td>
</tr>
<tr>
<td>1975</td>
<td>2747.00</td>
<td>59.37</td>
<td>1252</td>
<td>19</td>
<td>262701</td>
<td>104</td>
</tr>
<tr>
<td>1985</td>
<td>16332.10</td>
<td>494.54</td>
<td>1791</td>
<td>43</td>
<td>485580</td>
<td>85</td>
</tr>
<tr>
<td>1989</td>
<td>30730.01</td>
<td>88.16</td>
<td>1982</td>
<td>10</td>
<td>580115</td>
<td>20</td>
</tr>
<tr>
<td>1995</td>
<td>50198.00</td>
<td>63.35</td>
<td>2403</td>
<td>21</td>
<td>807000</td>
<td>39</td>
</tr>
</tbody>
</table>

(Source: Written statement filed by the company in industrial court and annual report of 1994-95)

Area of Operations: The company is licenced to supply electric power only within a 10 Kms radius of the office of the municipal office in the Municipal areas of Ahmedabad city and Gandhinagar only. With the abolition of the managing agency system in 1970, Killick Nixon Limited ceased to be Managing Agents of the company.
Up to 1985, the company was managed under the direction and control of the Board of Directors. From Sep., 1985 the company is managed by the Managing Director under the superintendence and direction of the Board of Directors. Under the Electricity Supply Act, maximum number of directors that can be appointed is 10 and presently the number of directors appointed are also 10.

The equity share holding pattern of the company on 31.03.1995 was as under:

**Table 5.2**

*Table showing the equity share holding pattern of the company on 31.03.1995*

<table>
<thead>
<tr>
<th>Name of the share holder</th>
<th>No. of share holders</th>
<th>% holding</th>
</tr>
</thead>
<tbody>
<tr>
<td>LIC</td>
<td>1</td>
<td>12.86</td>
</tr>
<tr>
<td>UTI</td>
<td>1</td>
<td>9.25</td>
</tr>
<tr>
<td>IDBI</td>
<td>1</td>
<td>0.01</td>
</tr>
<tr>
<td>IFCI</td>
<td>1</td>
<td>0.12</td>
</tr>
<tr>
<td>State of Gujarat</td>
<td>1</td>
<td>16.51</td>
</tr>
<tr>
<td>GIC and subsidiaries</td>
<td>5</td>
<td>11.77</td>
</tr>
<tr>
<td>GSI Ltd</td>
<td>1</td>
<td>12.38</td>
</tr>
<tr>
<td>Nationalized Banks</td>
<td>7</td>
<td>0.21</td>
</tr>
<tr>
<td>Others</td>
<td>108291</td>
<td>36.89</td>
</tr>
</tbody>
</table>

The debenture holding pattern of the company on 31.03.1995 was as under:

**Table 5.3**

*Table showing debenture holding pattern of the Company on 31.03.1995*

<table>
<thead>
<tr>
<th>Name of the Debenture Holder</th>
<th>% holding</th>
</tr>
</thead>
<tbody>
<tr>
<td>LIC</td>
<td>34.98</td>
</tr>
<tr>
<td>UTI</td>
<td>35.48</td>
</tr>
<tr>
<td>GIC &amp; Subsidiaries</td>
<td>14.62</td>
</tr>
<tr>
<td>Nationalized Banks</td>
<td>0.87</td>
</tr>
<tr>
<td>Others</td>
<td>14.05</td>
</tr>
</tbody>
</table>
The structure of Board of Directors of the Company as on 31.03.1995 was as under:

Total strength of directors .................................................................................................................. 10

Out of which representative of financial institutions ........................................................................ 4
(one each from IDBI, UT1, GIC & Govt. of Gujarat)

Representatives of the Debenture holders ...................................................................................... 1

Managing Director ............................................................................................................................ 1

Others ............................................................................................................................................... 4

Chairman Emeritus .......................................................................................................................... 1

Secretary .......................................................................................................................................... 1

(Source: 83rd Annual Report, 1994-95)

The Electricity Mazdoor Sabha

Background information

History -

The EMS is the representative union of the Ahmedabad Electricity Company Limited under the BIR Act, 1946. This Union was registered originally as Ahmedabad Electricity Mazdoor Sabha on 20.12.1967 under the Trade Unions Act, 1926. Enquiries with various union officials revealed that before the formal registration as a separate union textile labour association - TLA the representative union in the textile sector in Ahmedabad was involved in mobilizing the work force of this company from 1946. TLA's involvement continued up to 1957. From 1957 prominent leaders like Late Shri Indulal Yagnik helped in organizing the workers of the company. With the efforts of late Chandrakant Daru a separate union called 'Miscellaneous Mazdoor Saba' was established which continued to organize the workers till about 1964.
in 1967 prominent labour leaders like Sanat Mehta from Praja Samajvadi Party became interested in the problems of workers of this company and their efforts resulted into establishing a separate union. He being an outside political leader at the time of registration of the union Shri Thakorlal Patel who was an employee of the company was elected as the secretary of the union. The union obtained recognition as Representative Union under the BIR Act on 26.12.1968. The Union under the Presidentship of Shri Sanat Mehta was affiliated to Hind Mazdoor Sabha - HMS at national level.

In 1970-71 Natwarlal Shah joined this union and actively guided its activity. In 1972 Natwallal Shah became the president of the Union but the Secretary was elected from amongst the employees of the company. Shri Shah remained President till about 1978. So far the history of this union is very much similar to most other unions. In India, trade unionism has developed under an umbrella of political leadership of the nationalist movement and associational efforts in labour field have been more as a matter of philanthropy rather than justice. Hence, without help and participation of political leaders, trade unions find it very difficult to establish roots in the harsh realities of industrial world.

But as the union gained credibility and foot hold in the company the protected status granted by the BIR Act encouraged the employees of the company to form their own leadership and not seek help of the outside political leaders. Another view point about separation of political leadership from the union indicates that the company management itself initiated divorce of political leaders from union so that it has greater flexibility in dealing with their union.

From 1976 onwards, the office bearers of the union were elected from the employees of the company and the tradition has continued so far. Today the present leadership insists on having no affiliation to any of the political parties or with leaders of political field. The Union does not even show much enthusiasm for affiliation with any of the national federations of the trade unions and is highly concerned and protective about its individual status. Its affiliation to HMS though not cancelled is more for the name sake. The Union claims that its policies are shaped exclusively by the current leadership without any reference to its affiliation. It has not paid up even the affiliation fees or renewed its affiliation with HMS for last couple of years.
Membership: As per the annual return filed by the Union with the Registrar of Trade Unions in 1995 the Union had 3078 members on its enrolment list in December'94 out of which 45 were female members. The total no. of employees of the company are divided in 9 departments as per the summary of seniority wise statement submitted by the company as on 31.12.1994. These departments with a total number of their regular permanent employees strength is given in the following table:

**Table 5.4**

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Name of Department</th>
<th>Total number of employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Administration &amp; Personnel (A&amp;P)</td>
<td>40</td>
</tr>
<tr>
<td>2</td>
<td>Accounts</td>
<td>131</td>
</tr>
<tr>
<td>3</td>
<td>Amraiwadi office</td>
<td>346</td>
</tr>
<tr>
<td>4</td>
<td>City Zone</td>
<td>544</td>
</tr>
<tr>
<td>5</td>
<td>Commerce</td>
<td>37</td>
</tr>
<tr>
<td>6</td>
<td>Mains</td>
<td>566</td>
</tr>
<tr>
<td>7</td>
<td>Naranpura Office</td>
<td>490</td>
</tr>
<tr>
<td>8</td>
<td>Secretarial</td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>Materials</td>
<td>24</td>
</tr>
<tr>
<td>10</td>
<td>Sabarmati office</td>
<td>1894</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>4081</td>
</tr>
</tbody>
</table>

Of these total number of permanent employees, the union has more than 75% on its membership register.

Types of Members

The Constitution of the Union recognizes two types of members.

(1) *Ordinary Members*: Any person employed in or employee within the meaning of Sec. 3(13) of BIR Act, 1946 of the Electricity Industry whether in generation, supply, transmission or distribution of electrical energy in the State of Gujarat who has
completed 15 years of age can become an ordinary member of Union on payment of annual subscription of Rs.30

(2) **Honorary members**: If any person is not eligible to be ordinary member of the union and union wants to elect or coopt to its managing committee, any such person, it can accept such person as an Honorary member during the period of their office. But the constitution of the union restricts their number up to a maximum of 8 subject to the provisions of the Trade Unions Act, 1926.

Normally, the members become entitled to the benefits of the union after completion of his membership. The constitution of the union provides that a member who participates in any strike without sanction or approval of the Managing Committee shall not be entitled to any benefits of membership. If any member does not pay his annual subscription within first three months of the year he ceases to be a member but on payment of arrears and penalty he can rejoin the union. This time limit of three months can be extended up to 6 months on getting required permission from the Managing Committee.

**The Office**

The Registered Main office of the Union is situated on the third floor of a large commercial complex called the Agarwal Centre, Income Tax Cross Roads on Ashram Road in Ahmedabad. The total area of the office is 1210 Sq. Ft. which is divided into following parts: (1) Main Office (2) Rest Room, Pantry and Toilet (3) Legal office (4) Conference Room and (5) Workers Class Room

The Office is well-furnished, situated in the busy centre of the commercial area of Ahmedabad City. The Company has also provided two small branch offices at its city branch Shahpur and Sabarmati Office where the main activity of the company is carried on. The main office of the union employs one full time office assistant and has modern facilities like telephone, vacuum cleaner, refrigerator, English and Gujarati typewriter etc. The General Secretary of the Union is available in the main office on all the days. Normally, three to four office bearers visit this office to enquire about various matters and workers from different department visit this place once a month to discuss their problems and enquire about the activities of the union. The two branch offices are attended by local secretary and respective Vice Presidents at these places to attend to local problems.
Office bearers of the Union

The constitution of the union provides for the appointment of the following officials (1) One President (2) Vice Presidents (Maximum 3) (3) One General Secretary (4) Secretaries (Maximum 3), (5) One treasurer. All these office bearers are to be elected from within the members of the union. Apart from the elected office bearers the Constitution of the Union provides for constituting a Managing Committee of 21 elected members, which together with the office bearers manages the affairs of the union. The office bearers or committee members can be removed from their post for committing fraud or acting against the interest of the union by the General Meeting of the members by a three forth majority. The vacancies occurring among the office bearers or the committee members can be filled by the managing committee by co-option. The committee meetings are held once every month.

The Constitution of the Union:

The Union has written and registered constitution. It deals with the number of matters like the objectives of the union, rules regarding membership office bearers and their duties, application of general funds of the union, annual audit and inspection of books of the accounts of the union and dissolution of the union. It is interesting to note that though the Union was registered in 1967, its constitution was registered only in 1993.

The objectives of the Union:

The objectives that the founding members of the any union reflect to some extent the problems have faced in their dealings with the management, Government and the workers. This union has enlisted 13 objectives in its constitution.

(A) Objectives related to economic and other interests of workers in their employment:

1) To try to prevent any reduction of wages and obtain an advance
2) To procure to the members fair conditions of life and service

3) To try to redress the grievances

4) To try to secure compensation for accidents under the law

(B) **Objectives related to the upliftment or welfare of working class in electricity industry.**

1) To organize and unite the working class of the electricity industry covered by the BIR Act

2) To provide against sickness, unemployment, infirmity, old age and death

3) To help the working class in India and outside in procuration of the objects mentioned in the constitution

4) To take steps to ameliorate the social, economic and civil and political conditions of the members

(C) **Objectives referring to employer employee relation:**

1) To endeavor to settle disputes between employers and employees amicably so that a cessation of work may be avoided.

2) To provide legal assistance to members in respect of matters arising out of or incidental to their employment.

3) To endeavor to render legal aid to the workers during any strike brought about with the sanction of the union or any lock-out.

Other miscellaneous objects refer to acquiring knowledge about the Electricity Industry in India and outside and cooperating with organization of labour having similar objects. An evaluation of these objects suggests that the constitution attempts at covering some general objects in its scope but it also reflects some of the conflicting situation faced by the workers due to peculiar condition of this industry. The nature of work in this
industry is hazardous and chances of meeting with accidents are numerous. To guard against these, the objectives specifically refer to attempts for securing compensation for accidents. There is also awareness amongst the unionized workers about the importance of the activity of the company for the society which is reflected in its commitment to settle disputes amicably without cessation of work. The Union is also conscious about the formal framework for redressal of industrial grievances that is why it also mentions provision of legal assistance to members for resolution of their disputes and legal aid to workers during sanctioned strikes or lock-outs. The study of all these objectives reflects a union which is committed to the specific causes of the working class of the electricity industry in Ahmedabad City.

**Distribution of Powers and Duties amongst the office bearers:**

As in the case of most of the Unions in this Union also most of the powers and duties are centered around the General Secretary. He is the main functionary of the union and other officials are required to function in consultation with him.

**Elections of the office bearers:**

Every two years a bi-annual General Meeting is required to be held between April to June for electing the office bearers and other committee members. Any person who desires to contest such election is required to possess the following qualifications:

1) He should be a member of the union for the calendar year in which elections are to be held and also for one year prior to such year or should be a Honorary Member as per provisions in the constitution.

2) Any member can contest for the post of President, General Secretary and Treasurer.

3) Candidates for the post of Secretary, Vice President and Member of Executive Committee must belong to the respective offices - the Sabarmati Office and the City Office.

The union has framed elaborate rules for forms to be submitted by the candidates.
contesting elections, deposit money for contesting elections, recounting of votes in cases of doubts about the original counting, selection of symbols, powers of the election officer, taking oath of secrecy in general meeting etc. Since the union has a large office premises, it is convenient for it to hold elections there only. At the time of elections the offices are converted into election office and generally a senior worker having good standing in the eyes of the workers acts as the election officer. Election is held either at the General Meeting itself or separately and results of such elections are adopted by the G.M.

General Meeting

Normally it is held bi-annually between April to June. Most important business at such meeting is either conducting elections or adopting election results. Other activities like adopting statement of accounts audited by Chartered Accountant, presentation of union's work report during past period are transacted during such meetings. General Secretary is normally entrusted with the responsibility of calling and conducting it. A meeting has to be called on requisition by one fifth of the total strength of the union within 20 days of such requisition. If the office bearers ignores such requisition then the requisitionists themselves can call such meeting and its proceedings shall be binding on the union. Members must be given 15 days notice in writing for a meeting. Presence of 1/3rd membership is necessary to form quorum but for adjourned meetings no such quorum is necessary.

Union Finance:

1) General funds

The chief source of finance for the union is the annual subscription money and the interest on investment that the union has made in the past. Another important source for union finance is special contribution that the union collects from the members when the members gain important economic benefits due to efforts of the union. This has been very fruitful source for the union. All the executives of the union when interviewed unanimously agreed that the union is in very sound financial position because of its receipts on account of special contribution from the members. The major expenses of the union as per the latest final accounts of the union consists of the following:
1) Salary and allowance to office bearers and other administrative staff

2) Legal expenses and administrative expenses

3) Stationary, printing and postal charges

4) Expenses for holding elections in General Meeting.

5) Loans to dismissed workers on which no interest is charged.

Though the trade union's act of 1926 recognizes the right of the union to maintain a separate political fund for its political activity this union has kept itself away from any kind of political activity and hence there are no receipts and expenses on account of political activities of the union.

Provisions regarding settlement of disputes

The constitution of the union declares methods like conciliation and arbitration as normal accepted procedures for settling industrial disputes. It is specially provided for under the constitution that the arbitration under the law applicable shall not be refused by the Union. The constitution lays down that the union shall not resort to any strike unless all the methods provided for under the Bombay Industrial Relations Act for settlement of the disputes have been exhausted and then also if the majority of the members vote by ballot in favor of such strike. Also the union shall not resort to any stoppage of work which is illegal under the existing law. This shows the level of maturity on the part of the union leaders who have grasped the rules of the industrial relations machinery as it works within the present legal frame work for the industry. To strengthen its legal side the union maintains separate legal library which is presently equipped with 139 legal books.

The overall picture that emerges from the above description of the background of the union is that the union has emerged as a well organized structured institution, well equipped to participate in its role as a party to industrial relations.