



# हिन्द मज़दूर सभा

## HIND MAZDOOR SABHA

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HMS/DEL/ 185 /2023

October 06, 2023

Mr. Gilbert F. Houngho  
Director General,  
International Labour Organization,  
ILO Office Geneva.

Respected Sir,

We thank you for your letter to all ILO Member States dated 31 August that was brought to our attention. In this letter you confirmed that you have received the request from the ILO Workers' group of 12 July 2023 for the urgent referral of the dispute over the interpretation of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No 87) (C.87) in relation to the right to strike to the International Court of Justice (ICJ) for decision, in accordance with article 37(1) of the ILO Constitution. The Workers' group also requested this matter to be put urgently on the agenda of the Governing Body for decision. This request has in the meantime received support from 36 Governments from different regions, recognising the importance of legal certainty on this issue for all constituents.

We also express our appreciation for the background report that was prepared by your Office to inform the decision during the Special Meeting of the Governing Body on 10 November 2023 and welcome your invitation to all Governments and employers' and workers' organisations concerned to send in comments.

Indeed, the right to strike is of the utmost importance for workers in (INDIA) and the inability of the ILO to supervise this right, as a consequence of the dispute, in our national context (has seriously affected/is potentially seriously affecting) labour relations in our country.

The union government in India and some of the state governments ruled by same or similar dispensations have been working under severe pressure of "Big Corporates and Multinational Companies". The union government has scraped hard earned 29 Central Labour laws and has enacted 4 anti-worker, pro – employers labour codes diluting or deleting worker friendly provisions of existing labour laws in the name of "Ease of Doing Business", "Labour Reforms" or Flexibility. For example the ceiling of workers, employed for applicability of Industrial Employment Standing Order Act has been enhanced from 100 to 300, ceiling for applicability of "Contract Labour Act" has been enhanced from twenty to fifty.

In case of prior permission from appropriate authority for layoff or closure of the industry the ceiling of workers has been enhanced from 100 to 300. India has ratified ILO Recommendation 204 on formalization of informal economy on one hand and on the other has introduced fixed term employment, has brought "Essential Defence Services Act" (for one year but still enforced), has brought Unlawful Activities Prevention Act (UAPA) and using it against trade union leaders implicating them in false criminal charges, has introduced a new entity in the name of "Facilitator" diluting the role of labour inspector or conciliation officer.

The details of government's action decision and policies, detrimental and violative of basic spirit of protection of right to strike under ILO Convention 87 has been brought to the notice of Director General ILO vide our letter no 25.05.2023 dated (attached for ready reference )

ITUC has also to forwarded the same with it's recommendations.

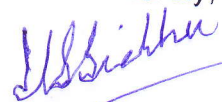
(elaborate on the strong and indispensable relationship between C87 and the right to strike and the legal and practical context of the right to strike at the national level in your country)

We, therefore, wholeheartedly support the request for a referral from our Workers' representatives in the Governing Body and call for an urgent decision by the Governing Body to ensure an immediate referral of the dispute to the ICJ. In addition, since we firmly believe that the right to strike is an essential part of freedom of association and already elaborated by the ILO supervisory bodies, there will be no added value in a protocol complementing the convention to qualify the right to strike. On the contrary, any such attempt would generate a conflict with C.87 already guaranteeing the right to strike as a fundamental principle and right at work. This would further exacerbate the dispute rather than solve it.

We are convinced that legal certainty through an advisory opinion of the ICJ that is binding on the ILO is urgently required.

With regards,

Yours sincerely,



(Harbhajan Singh Sidhu)  
General Secretary