

ALL INDIA BANK OFFICERS' CONFEDERATION



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To All Affiliates (Please Circulate)

Important Information

Dear Comrades,

Agitation to implement respectable wage revision and service conditions Time to be resolute – No threat shall deter us, till we succeed

As you are all aware, the IBA and the Government have been protracting the wage revision for over 27 months. They have been testing our patience for a long time and now, it has transpired that the IBA has taken a rigid stance in spite of our positive response. We are, therefore, constrained to escalate the agitation. In the circumstances, we hold the IBA, management of the Banks and the Government squarely responsible for the present impasse. The resolute stand taken by us, supported overwhelmingly by the zeal and enthusiasm of our membership has sent appropriate signals to the IBA/Government.

2. This will naturally trigger the management of the Banks/Government to use every mean and divisive tactics to break our agitation programmes. Every attempt will be made to divide us on the basis of cadre, grade, scales and designations. Such threat was always there, is here and will be there. Only our firm stand, unity and solidarity can defeat such nefarious attempts.

3. There have been numerous instances of banks issuing letters to officers, threatening invocation of Sec 36 AD of the Banking Regulation Act, 1949. Hence, we thought it fit to apprise you the provisions of Sec 36AD, its background and the views of Parliamentarians on the floor of the House, to allay the fears on this matter, if any, amongst the members in general.

Sec: 36AD. (1) No person shall-

(a) **obstruct any person from lawfully entering** or leaving any office or place of business of a banking company or from carrying on any business there, or

(b) hold, **within the office or place of business** of any banking company, any demonstration which **is violent or which** prevents, or is calculated to prevent, the transaction of normal business by the banking company, or

(c) act in any manner calculated to **undermine the confidence** of the depositors in the banking company.

(2) Whoever contravenes any provision of sub-section (1) **without any reasonable excuse** shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

4. Comrades, please examine the provisions carefully. The words in **bold italics need your specific attention**. We would like to clarify as well as amplify that the provisions of 36 AD cannot be invoked against officers at all, as is being threatened often. We detail our substantiated stand hereunder:

- Please observe the usage of "**No person shall**". This incontrovertibly indicates that it cannot be applied only to one particular section – **i.e. officers, in isolation**. When the action is a mass action, the yardstick cannot be different for different segment of employees. The word "Person" includes, even a common, if what is said later in this section is satisfied. This is NOT officers-specific.
- We have not obstructed** anyone lawfully entering, leaving or working in any office or place of business. The fact that executives enter the office and work on strike day, bears testimony that we have NOT obstructed any one.

- c. Further, **during agitation, none of us has become at any point of time violent.** It has never happened in the history of our bankers' trade unionism.
- d. Our strike has never been to undermine the Banks or the confidence of the customers. In fact, each of our strikes has the larger interest of the banking industry, customers and common man, in addition to our own service conditions as prime demands. We fight for the rights of customers.
- e. Our agitations **are not without "reasonable excuse"**. Our demands are genuine and substantiated. Efforts have been made with the competent authorities to draw attention to our demands, due notice(s) has/have been served; conciliation process has been held before CLC(C). The extant process and norms have been duly followed. Beyond all, our strikes/agitations have always been peaceful, benign act of expressing dissent, dissatisfaction. We have more than reasonable excuse, as the demands encompass our service/working conditions.

5. It will be worthwhile to revisit the background of Sec 36AD. During the 1960s, trade unions were constrained to struggle to achieve meaningful service conditions and had also participated in the general strikes. Considering the importance of the banks in the development of the country, the Government brought the Social Control Bill – Banking Laws (Amendment) Bill, 1968. While the aim of the Bill was social control, Section 36 AD was surreptitiously inserted "to safeguard the interest of banks and the customers". This draconian provision of 36AD was vehemently opposed by the trade unions through countrywide agitations. Under the banner of various trade unions, bank employees observed series of strikes and agitation programmes against these provisions. The magnitude of dissent of bank men and the working class was such that this engaged the attention of the Parliamentarians and was the subject of discussion in both Houses of Parliament. Many Parliamentarians raised the issue and insisted on deletion of Section 36 AD. The matter was referred to the Petitions Committee of the Parliament - 4th Lok Sabha. The Committee on Petitions considered the matter and in its Report (vide para 3.53) observed as under:

Extracts from 6th Report of the Committee on Petitions (4th Lok Sabha)

3.53 The Committee observe that Section 36 AD of the Banking Companies Act as inserted by the Banking Laws (Amendment) Act, 1968, has been enacted in order to ensure that no inconveniences is caused to the members of the public and no harm is done to the credit-worthiness of the banks. The Committee appreciate that banks are delicate credit institutions and the Government have a responsibility to ensure that they are able to function normally without any obstructions so that the trade and industry is not adversely affected. The Committee would, however, like to emphasise that while applying these provisions **it should be ensured that genuine trade union activities do not receive any set back and also the bank employees are not harassed in any manner.** The Government considered the said report and in the Action Taken Report submitted to the 5th Lok Sabha, the same was reported to the Parliament as under:

Extracts from 5th Report (5th Lok Sabha) on Action Taken by the Government on the recommendation made by the Committee on Petitions at para 3.53 of 6th Report (4th Lok Sabha)

(4) Recommendation in para 3.53 of the Report Re. Section 36 AD of the Banking Companies Act as inserted by the Banking Laws (Amendment) Act, 1968. The Ministry of Finance (Department of Banking) in their communication, dated the 12th March, 1970 stated that the **Government accepts the recommendations of the Committee. The Reserve Bank of India has been requested to bring the recommendation to the notice of the banks for their guidance.**

During the discussions in the Parliament on 24-3-1970 on the amendment moved by Shri S.M. Banerjee, in reply, Shri Panampalli Govinda Menon, the then **Law Minister, stated that the Government had accepted the recommendations of the Committee on Petitions, and RBI had been advised to write to the Banks not to invoke Section 36 AD of the Banking Companies (Regulations) Act.**

6. It is also very relevant to note the statement of the Finance Minister, Shri K C Pant, on the floor of the Rajya Sabha on Banking Amendment Bill, Page 4525 & 4526, which are reproduced hereunder:

Page 4525: "Now, my friend, Shri Bhupesh Gupta, wanted to what I had to say on Sec.36AD, and some other Hon. Members spoke also on this section. I would like to say at the outset that there has been some misapprehension about the scope of the proposed section. **It does not deal with labour-management relations....**

SHRI BHUPESH GUPTA: What does it deal with?

SHRI K C PANT... **nor does it affect legitimate trade union rights. It does not prohibit lawful strikes and other legitimate and peaceful methods of ventilating grievances....**

Page 4526: "... **There is no infringement in rights to carry on legitimate trade union activity under this section nor even a curb on peaceful picketing...**"

Comrades, please note that Section 36AD was not expected to be a anti-labour provision. It is not against any peaceful agitation. As such, threatening the bank men of invoking Section 36AD is unfair, inappropriate and is out of context. It only manifests to what extent the attitude of the Bank Management has got vitiated.

Thus, it is amply clear from the above facts which are on record with the parliament of this nation, holding demonstrations against management to protest against their action or to press members/employees' demands is a legitimate and democratic right of the trade unions.

7. It is more than a possibility that communications/letters may be sent to officers, more specifically to SMGS IV and V officials threatening them that they are not expected to become members of Association or participate in strikes. Please be sanguine that this does not stand in the eyes of the law. Right to form Association is a right enshrined in the Constitution. Article 19 (1)(c) protects the right of the citizenry **to form associations or unions**; As such, expecting SMGS IV and V officials not to be members of any association, is an attempt to defeat the basic right provided in the Constitution and goes against the spirit of the Supreme Law of the country – the Constitution.

8. The agitational calls are given under the banner of United Forum of Bank Unions demanding a fair, respectable wage revision and service conditions. Because of our unity and solidarity, we have been able to realize reasonable service conditions. Threat of unilateralism is likely to perpetrate in the coming days. This is the time to show the strength of unity, solidarity and our resoluteness to realize our demands. We call upon every section of officers, from Probationary Officers to officers in the Top Executive Grades, to be united and participate in street level demonstrations and strikes. This is to protect the dignity, honour and self-esteem of bank men.

Nothing fails where unity succeeds. Let us ignore the threats and isolate the saboteurs and subversive forces. Let us try with all earnestness to ensure that agitational programmes succeed and we realize our dreams. It is now, or never!!

With vibrant greetings,

Comradely yours,



Soumya Datta
General Secretary

It is essential that there should be organization of **labor**.

This is an era of organization.

Capital organizes and therefore **labor** must **organize**.

- Franklin D. Roosevelt, US President
