

ALL INDIA BANK OFFICERS' CONFEDERATION



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Circular No. 2021/25

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Important Information

To All Affiliates (Please Circulate)

Dear Comrades,

UFBU Agitation/strike programme:

Demanding: Strengthening of Public Sector Banks

Opposing: Proposed privatisation of Public Sector Banks and Retrograde Banking Sector Reforms

We invite your attention to our Circular No. 2021/15 dated 18.02.21 enclosing the Strike Notice issued by UFBU with detailed programmes of agitation including two days' strike on 15th and 16th March 2021, demanding strengthening of Public Sector Banks and opposing privatisation and retrograde banking sector reforms.

02. Comrades, we are on to a decisive battle ever waged by trade unions in banking industry. Consequences of privatisation of state-owned banks are unimaginable and catastrophic. PSBs who are the nation builders are being handed over to the private players. We cannot be mute spectators to these misplaced reforms, which are going to rob the "next-door, convenient, cost-effective banking facility" available to the citizenry. As such, we are constrained to escalate, scale up our actions to thwart the attempts of the Government in doing so. We cannot afford privatisation and dilapidation of public sector banks under any circumstances. The humungous assets and savings of common people held in the public sector banks cannot be handed over to crony corporate houses.

03. Agitations, demonstrations, processions, street-corner meetings and public outrage against privatisation in social media, anger and angst of stakeholders are being reported from across the country. This has been extensively covered in electronic and print media. As such, it is natural that Government would make every effort to sabotage the agitation and strike programmes. Bank Managements/Government is certain to use every mean and divisive tactic to break our agitation programmes. Every attempt will be made to divide us on the basis of cadre, grade, scales and designations. Every act will be misquoted, misinterpreted and used as threat. Comrades, such threat was always there, is there and will be there. Only our firm stand, unity and solidarity can defeat such nefarious attempts and arrogance of power.

04. There have instances of banks issuing letters to officers, threatening invocation of Sec 36 AD of the Banking Regulation Act, 1949. Banks are making efforts to show these provisions through magnifying glasses. Hence, we thought it fit to detail before 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.

What Sec 36AD states:

(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.*

05. Comrades, please peruse the above provisions carefully. The words in **bold & italics mode need your specific attention**. We would like to clarify as well as amplify that the provisions of 36 AD **cannot be invoked**, as is being threatened often. We detail our substantiated stand hereunder:

- a. 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**. The word "Person" includes, even a common man, **if only** what is stated later in this section is satisfied. When the action is a mass action, the yardstick CANNOT be different for different segments of employees.*
- b. **In the past also, we have not obstructed** anyone from lawfully entering, leaving or working at the office premises. *The fact that executives in Top Executive Grade enter the office and work on strike day stands testimony that we have **NOT** obstructed anyone from doing so.*
- c. *Further, in the history of banking trade unionism, **none of our strikes has at any point of time been violent**.*
- 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 highlighting our demand for betterment of own service conditions. We fight for the rights of customers. We are fighting for the safety of banks. We are fighting for strengthening the banks.*
- 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 has 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.*

In the light to what is stated in 4 (a) to (e), provisions of Section 36 AD cannot be invoked in reality, but is being used as a threat and strike-breaking exercise on the part of the State. We reassure our officers on this.

06. It is also worthwhile to revisit the background of Sec 36AD of the BR Act. 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 from the Act. 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 Regulation 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.**

07. 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...**"

The above clearly transpire that 36AD was not expected to be an anti-labour provision. It is not against any peaceful agitation. **As such, threatening the bank-men of invoking Section 36AD is unfair and is out of context.** It only represents how vitiated the thinking of the management of the banks has become.

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

08. It is more than a possibility that communications / letters may be sent/ issued to the striking officers, more specifically to SMG / S-IV and V officials advising them that they are not expected to become members of Association or participate in strikes. We would like to reiterate that this does not stand the scrutiny of law. Right to form Association is a right enshrined in the Article **19 (1)(c) of our Constitution.** As such, expecting SMGS IV and V officials not to be members form / be part of the Associations, is an illegal and unconstitutional attempt to subvert one of the basic Fundamental Rights enshrined in the Constitution of India – which says: "All citizens shall have the right to form associations or unions" and is an integral part of the 'Right to Freedom'.

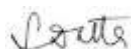
09. The agitational calls are given under the banner of United Forum of Bank Unions **Demanding - strengthening of Public Sector Banks; Opposing: Proposed privatisation of Public Sector Banks and Retrograde Banking Sector Reforms.** Because of our unity and solidarity, we have been able to realise reasonable improvements in service conditions and thwart all attempts for denying / belittling our legitimate demands across decades. 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 Executive cadre, to be united and participate in street level demonstrations and strikes. This is to protect the most precious treasure of our national economy, the public sector banks – as country cannot afford to losing them at the whims of the ruling class.

10. Before we conclude, we appeal to senior officers / executives of the banks to wholeheartedly and actively support the cause which is a struggle for our own existence. In ultimate analysis, none of us can forget that the service conditions the entire officers' community enjoys today have emanated from series of struggles and relentless efforts on the part of banking trade unions. We call upon all our senior officers and executives to stand by us at this hour of crisis, so that the PSBs stay protected, and in turn they and the countrymen can reap the benefits of public sector banking by all means.

Comrades, nothing fails where unity succeeds. Let us ignore the threats and isolate the saboteurs and subversive forces. Let us have efforts with all earnestness for supporting the more effective and inclusive public sector institutions and ensure that our agitation programmes succeed and we realise our dreams of shielding the public sector character of Indian banking system, which stood strong empirically, even during the period of 'Global Economic Meltdown of 2008' that had led the world's banking system towards the edge of collapsing. It is now, or never!!

PSBs belong to billions and billions of this country and shall not be subjugated in the hands of a handful of billionaires!

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, Former US President
