
(2004) 05 JH CK 0037

In the Jharkhand High Court

Case No : Writ Petition (C) No's. 2976 of 2001 and 2248 of 2004

Akileshwar Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 13-05-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 3 LLJ 1087 : (2004) 102 FLR 1204 : (2004) 3 JCR 351

Hon'ble Judges : P.K. Balasubramanyan, C.J

Bench : Single Bench

Advocate : Anand Sen and P.K. Sengupta, for the Appellant; B.N. Tiwary, JC to Sr. SC-I and S.L. Agrawal, for the Respondent

Judgement

P.K. Balasubramanyan, C.J.—Heard counsel on all sides.

2. W.P.(C) No. 2976 of 2004 filed by the General Secretary, Mosabani Mines Labour Union, challenges a notice, Annexure 11 issued by the Registrar of Trade Unions, calling upon the Union concerned to hold a fresh election on the basis of complaints that the election held on 21.2.2001 was not properly conducted. In the writ petition, it is contended that the Registrar of Trade Unions had no power to annul an election, already held, though he may have a power to ensure that the provisions of the Trade Unions Act are complied with. The further ground is that by the time he issued Annexure 11 notice, a suit had already been filed on 11.5.2001 as Title Suit No. 12 of 2001, seeking a declaration that the election held on 21.2.2001 was valid and the office bearers elected therein, were validly elected. While admitting the writ petition, this Court also stayed the proceedings pursuant to that notice.

3. W.P.(C) No. 2248 of 2004 is filed claiming to challenge the order of the Trial Court in Title Suit No. 12/2001 refusing to keep that suit stayed until the disposal of W.P.(C) No. 2976 of 2001.

4. I fail to understand why the Trial Court stayed the suit earlier merely at the

say so of the parties and because of the pendency of W.P.(C) No. 2976 of 2001. Whatever may be the result of W.P.(C) No. 2976 of 2001, that had no relevance to the issue that fell for consideration in Title Suit No. 12/2001. The issue therein was whether the meeting held on 21.2.2001 was valid and proper and whether the office bearers elected therein were validly elected. That had nothing to do with the existence or otherwise of the power in the Registrar of Trade Unions to call upon the Union to hold a fresh election.

5. I find that the term of the office bearers is only three years. Therefore, the term of the office bearers, commencing from 21.2.2001, has expired on 21.2.2004. It is, therefore, imperative that a fresh election should be held for the Union to elect its office bearers in terms of the Trade Unions Act. Therefore, there is no need to adjudicate on the existence of power or otherwise of the Registrar of Trade Unions in issuing Annexure 11 notice. All that is necessary is to direct the union, represented by the petitioner, to hold a fresh election immediately and to direct the respondents to ensure that an election is held immediately in the Union represented by the writ petitioner.

6. As regards the other writ petition, the question whether the office bearers, elected on 21.2.2001 were validly elected, might be a question that can still survive for decision. Therefore, all that is necessary is to direct the Trial Court to try and dispose of that suit on merits as expeditiously as possible and at any rate within six months from the date of receipt of a copy of this judgment.

7. In the result, W.P.(C) No. 2976 of 2001 is disposed of, directing that a fresh election be held immediately, as indicated above, and W.P.(C) No. 2248 of 2004 is dismissed, with a direction to the Trial Court to try and dispose of the suit within six months from the date of receipt of a copy of this Order.