
(1959) 10 KL CK 0019
In the High Court Of Kerala

Angappa Chettiar (A.L. An.)

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 30-10-1959

Acts Referred:

Industrial Disputes Act, 1947 — Section 10

Citation : (1960) 1 LLJ 775

Hon'ble Judges : K. Sankaran, C.J; T.K. Joseph, J

Bench : Division Bench

Judgement

T.K. Joseph, J.—The petitioner, one of the partners of Sri Mahalingam Tile Works, Karuvannur, Trichur district, has filed this petition praying that an appropriate writ be issued quashing an order of the Government referring a dispute to the labour court, Ernakulam.

2. According to the petitioner, the workers in the tile factory were members of a registered trade union, named Panamkulam Karuvannur Ottu Company Thozhilali Union, Four workmen were dismissed by the management in June 1957, on the ground of misconduct. The union took up the cause of the dismissed workmen and talks were going on between the management and the union regarding the matter. At this stage the dismissed workmen and several outsiders began to create trouble before the factory making it impossible to carry on work in the factory peacefully. This was without the approval of the trade union and the request of the management to the Government for protection did not meet with success. The Labour Department convened several conferences to resolve the dispute but it was not possible to effect a settlement. In these conferences the third respondent who had nothing to do with the workers in the factory represented them. The petitioner's case is that the Communist Party wanted to organize a union there and that the Government Supported the move. The disputes were finally referred for adjudication to the labour court u/s 10(1)(c) of the Industrial Disputes Act by order (Ex. J.) No. L. Dis. 16137/57/L & L.A.D. It is this reference which is sought to be quashed, and the grounds relied on are that

the reference is mala fide and that in any event the third respondent is not entitled to represent the workers. The petitioner therefore prayed that an appropriate writ be issued quashing the reference or at least the name of the third respondent be struck off from the records of the file.

3. On behalf of the respondent 2 a counter-affidavit has been filed by an Assistant Secretary in the Labour Department of the Government Secretariat, denying the allegation of mala fides and contending that the third respondent is competent to represent the workers. It is further contended that even if the third respondent is not competent to represent them, the order of reference does not become invalid thereby, the defect if any being only procedural. The second respondent, the General Secretary of the Panamkulam Karuvannur Ottu Company Thozhilali Union, has filed a counter-affidavit. The third respondent has filed a counter-affidavit supporting the position taken by the first respondent and contending that he is competent to represent the dismissed workmen as vice-president of Ottu Company Thozhilali Union, Manali, Pudukkad.

4. This original petition was heard along with O.P. No. 371 of 1957 which is disposed of today by a separate judgment. The main point arising in this petition is whether the order of reference can be quashed by a writ of certiorari. It has been held by the Supreme Court in *State of Madras Vs. C.P. Sarathy and Another, The Newspapers Ltd. Vs. The State Industrial Tribunal, U.P., The State of Bihar Vs. D.N. Ganguly and Others*, that a writ of certiorari will not lie to quash an order of reference under the Industrial Disputes Act as such an order is only an administrative act of the Government. We have followed this view in O.P. No. 371 of 1957. The main prayer of the petitioner cannot therefore be granted.

5. As regards the allegation of mala fides, it may be observed that the materials on record are insufficient to uphold this contention of the petitioner.

6. It is also prayed by the petitioner that at least the name of the respondent 3 should be struck off the records of the file. The question whether the respondent is entitled to represent the workers before the labour court is one which ought to be raised before that Court. This involves a question of fact on which the labour court can give a decision. We do not therefore consider it necessary or proper to grant this prayer either.