

(2011) 03 KAR CK 0155
In the Karnataka High Court
Case No : Writ Petition No. 7771 of 2011

Bangalore East Industrial Workers Union (R)	APPELLANT
Vs	
The Assistant Labour Commissioner and Conciliation Officer, Bangalore Division - III and The Management Molex India Pvt. Ltd.	RESPONDENT

Date of Decision : 25-03-2011

Acts Referred:

Citation : (2011) 03 KAR CK 0155

Hon'ble Judges : A.N. Venugopala Gowda, J

Bench : Single Bench

Advocate : T.S. Anantharam, for the Appellant; Jagadeesh Mundargi, AGA for R1, C.K. Subramanya, for B.C. Prabhakar, for R2, for the Respondent

Final Decision : Allowed

Judgement

A.N. Venugopala Gowda, J.—The Petitioner made an application on 18.5.10 before the 1st Respondent to accord status of "protected workmen" to four workmen of the 2nd Respondent - establishment. The application contains the particulars and the names of four workmen who were requested to be declared as "protected workmen". Notice of the application was given to the 2nd Respondent - Management of M/s. Molex India Pvt. Ltd. The 2nd Respondent filed its statement of objections on 17.8.10. The Petitioner filed a reply dated 14.9.10 stating that application made being lawful, the permission sought may be accorded. The 1st Respondent passed the Order dated 25.11.10 declining to accord permission to treat the four workmen suggested by the Petitioner as protected workman and the application of the Petitioner was dismissed. Aggrieved, the Union has filed this writ petition.

2. Sri T.S. Anantharam, learned Counsel appearing for the Petitioner contended that, the 1st Respondent without taking into consideration the material/relevant aspects i.e., (a) Whether the Applicant is a registered Trade Union, (b) Whether the suggested persons are the workmen in the establishment of 2nd Respondent

and (c) Whether the suggested persons are office bearers of the Union., has passed the impugned Order, on account of the misdirection adopted in taking note of an amendment to the Trade Unions Act, 2001, with effect from 9.1.01, which has no application to the case on hand. Learned Counsel submits that the impugned Order which is not a considered order is arbitrary and illegal and at any event is vitiated in view of the misdirection adopted in the matter and as a result, calls for interference. Learned counsel further submitted that, the period for which permission was sought will come to an end on 30.4.11 and hence, the application of the Petitioner being lawful, which having not been considered in accordance with law by the 1st Respondent, the impugned Order may be quashed and the permission sought may be accorded.

3. Sri C.K. Subramanya, learned Counsel appearing for the 2nd Respondent - Management submitted that, in view of the detailed objections filed by the 2nd Respondent, the claim of the Petitioner before the 1st Respondent is untenable and the decision taken to dismiss the application of the Petitioner is justified.

4. Sri Jagadeesh Mundargi, learned Addl. Government Advocate appearing for the 1st Respondent submitted that the application having been examined, decision was taken as per the impugned Order and the same is justified.

5. I have perused the record.

6. The Applicant made the application on 18.5.10 furnishing the names of four office bearers to be recognised as protected workman for the period 2010-2011. Upon the Management filing its statement of objections, a reply was filed offering clarifications with regard to the objections raised by the Management. Though the 1st Respondent has narrated the contents of the application, the objections and also the reply of the Petitioner, has failed to consider the matter in accordance with law and pass the order. In the circumstances, I am of the view that, the relevant questions of fact which need to be considered by the 1st Respondent while deciding the application of the Petitioner, has not at all been adhered to by the 1st Respondent. That being the position, I am of the view that, the impugned Order should be quashed and the 1st Respondent should be directed to reconsider the application of the Petitioner for fresh decision keeping in view the observations made supra and in accordance with law.

7. Though a prayer was made by Sri T.S. Anantharam, that this Court itself may grant the prayer as prayed in the application of the Petitioner filed before the 1st Respondent, I deem it inappropriate to consider the request, since the claim of the Petitioner is required to be record and decision taken by the 1st Respondent at the earliest.

8. In the result, the writ petition is allowed and the impugned Order is quashed. The 1st Respondent is hereby directed to reconsider the application of the Petitioner with utmost expedition and take a decision in the matter on or before 11.4.11.

9. All the questions are left open and to be decided by the 1st Respondent in accordance with law. No costs.