

(2017) 03 PAT CK 0057

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 15602 of 2013

Bihar State Hydro Electric Power Corporation Ltd.

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 16-03-2017

Acts Referred:

Constitution of India, 1950 — Article 226
Trade Unions Act, 1926 — Section 10

Citation : (2017) 153 FLR 530

Hon'ble Judges : Ashwani Kumar Singh, J.

Bench : Single Bench

Advocate : Mr. Shambhu Nath Choubey, Advocate, for the Petitioners; Mr. Yogendra Pd. Sinha, Advocate, for the Respondents

Final Decision : Dismissed

Judgement

Ashwani Kumar Singh, J. (Oral)—In the instant writ application, the petitioners seek a direction to be issued to respondent no. 2, the Registrar-cum-Labour Commissioner to cancel the registration granted to respondent no. 3 in violation of the Trade Unions Act, 1926 (for short "the Act").

2. It is submitted by the learned counsel for the petitioners that although Bihar Rajya Ardha Sarkari Nikaya Padadhihari Sangh has been registered under the Act and the registration number has also been allotted to it, the registration has been obtained by playing fraud. 3. On the other hand, learned counsel for respondent no.

3. submitted that the instant writ application is not maintainable as the petitioners have statutory remedy under Section 10 of the Act.

4. I have heard the parties and perused the record.

5. I find substance in the submission made by the learned counsel for respondent no. 3.

6. Section 10 of the Act reads as under :-

"Section 10. Cancellation of registration.

-A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar-

(a) on the application of the Trade Union to be verified in such manner as may be prescribed;

(b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6;

(c) if the Registrar is satisfied that a registered Trade Union of workmen ceases to have the requisite number of members:

Provided that not less than two months" previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union."

(emphasis mine)

7. It would be evident from reading the aforesaid provision that the Registrar under the Act is empowered to withdraw or cancel certificate of registration of a Trade Union if the certificate has been obtained by fraud.

8. Admittedly, the petitioners have never approached the Registrar for cancellation of registration granted to the respondent no. 3 under the Act.

9. In view of the equally efficacious alternative statutory remedy being available to the petitioners, I am not inclined to entertain the instant writ application.

10. It is dismissed, accordingly.