
(1999) 01 PAT CK 0034
In the Patna High Court
Case No : C.W.J.C. No. 997 of 1996

Bokaro Steel Workers" Union and Another	APPELLANT
Vs	
State of Bihar and Others	RESPONDENT

Date of Decision : 10-01-1999

Acts Referred:

Trade Unions Act, 1926 — Section 28

Citation : (2000) 1 LLJ 117 : (1999) 1 PLJR 734

Hon'ble Judges : N. Pandey, J

Bench : Single Bench

Advocate : Lalit Kishore and Rama Kant Sharma, for the Appellant; T.K. Jha, K.N. Gupta, Satyendra Krishna Prasad, A.P. Jittu and Amod Kumar Sinha, for the Respondent

Final Decision : Allowed

Judgement

N. Pandey, J.—Petitioner No. 1 in this application, claiming to be the General Secretary of Bokaro Steel Workers" Union, has prayed for quashing the direction contained in communication dated January 11 1996 (Annexure-5) addressed to the Managing Director, Steel Authority of India, Bokaro Steel City with a copy to Shri S.C.L. Shrivastava (respondent No. 4). By the impugned communication, Additional Registrar, Trade Union had informed that in view of the decision in T.S. 120 of 1990 and order of this Court in C.W.J.C. No. 6834 of 1994, the election of the Union held on August 5, 1987 was found valid. Besides the aforesaid, names of office bearers including Shri S.C.L Shrivastava (respondent No. 4) as General Secretary was also mentioned with a request to hold a fresh election of the office bearers. The communication further shows although Shri Bindeshwari Dubey, Shri P.N. Tripathy and Shri A. K. Tripathy, were dead, but their names were mentioned as Executive President, and Vice President, respectively. But the learned Additional Registrar has failed to disclose the source of his power in issuing such directives to the authorities.

2. From the materials brought on record, it would appear that each of the rival

factions -one led by the writ petitioner and the other by Shri Shrivastava (respondent No. 4) have been fighting litigations to establish their claim. But having regard to the limited question raised in this case, I need not go into the details of rival claims for the simple reason that this Court while exercising a writ jurisdiction should not undertake to adjudicate on the merits of conflicting claims involving disputed facts to find out whether elections conducted by the rival factions were valid. It has also been settled through judicial verdicts that in absence of any adjudicatory power to the Registrar, Trade Union, it is the civil Court alone which is competent to decide the rival claim of the office bearers of the Union regarding election.

3. It appears from the facts on record that an election of the office bearers was held on August 24, 1990 of which M/s. Bindeshwari Dubey and P.N. Tripathy (since deceased) were elected as President and General Secretary, respectively. The intimation in this regard was also given to the Registrar, Trade Unions as required u/s 28 of the Trade Unions Act, 1926 (hereinafter to be called "the Act"). The said election was however, challenged by respondent No. 4 Mr. Srivastava in Title Suit No. 120 of 1990 before the Civil Court. According to him, in an election held on August 5, 1987 he was elected as Joint General Secretary and similar was the position when another election took place on October 24, 1989. The next election, therefore, as per the bye-laws, was required to be held after two years, but as alleged late Sri Tripathy claiming himself as General Secretary, got the election conducted on August 24, 1990. The suit was contested by the parties and ultimately the civil Court by the judgment dated March 1, 1995 held that the elections either held on October 24, 1989 or on August 24, 1990 were illegal and invalid.

4. The case of the petitioner is since the Registrar, Trade Unions after holding enquiry had already recognised the office bearers as elected on October 24, 1989 vide his letter dated September 15, 1990 (Annexure-1), therefore, after the expiry of the period of two years, another election was conducted on May 28, 1992 and the result thereof was also communicated by the then General Secretary late P.N. Tripathi to all concerned on May 31, 1992 vide Annexure 3.

5. But it is alleged that the Registrar, Trade Unions, unnecessarily carried out a protracted enquiry and finally by order dated July 29, 1994 declared the said Union illegal with a direction to the Deputy Labour Commissioner, Bokaro, as his nominee to get the election conducted afresh. The above order was ultimately challenged in C.W.J.C. No. 6834 of 1994 and this Court having heard both the sides, set aside the order vide the judgment reported in 1995 1 PLJR 400, holding that the Registrar, Trade Unions had no jurisdiction either to appoint a nominee or to issue any direction for holding election of the office bearers not a jurisdiction to declare such election illegal since such disputes could only be adjudicated by the competent civil Court. The abovementioned decision of course was challenged before the Supreme Court, but having noticed that another election had taken place in the year 1996, disposed of the SLP without

expressing any opinion. The relevant part of the order can be noticed hereunder:

"The communication given by the Registrar, Trade Unions in July, 1994 is the subject matter of challenge in this SLP. It has however been stated before us by Mr. Gopal Subramaniam, learned senior Counsel appearing for respondent No. 1 that in March 1996 another election had taken place. Accordingly, it is not necessary to look into the question raised in this petition. We also do not think that any further order need be passed by this Court. This SLP is therefore, disposed of. We make it clear that we have not expressed any opinion on the rival contentions of the parties raised in this SLP and also on the validity of the election held in March, 1996."

6. The submission on behalf of the petitioner is although the learned Munsif had declared the 1990 election illegal, but no interference whatsoever was made with regard to the election held on May 28, 1992. Therefore, even the election held on August 24, 1990 was declared invalid, it would not ipso facto declare the election of May, 1992 as illegal. But the Registrar, Trade Unions again after over-stepping his limit, issued the impugned order on January 11, 1996 (Annexure 5) directing Mr. Shrivastava (respondent No. 4) to get the election conducted. In that view of the matter, since the election held in 1992 and the other in 1996 were not declared illegal by any competent Court, the Registrar had no jurisdiction to authorise the office bearers as elected on September 5, 1987 to hold the election afresh.

7. On the other hand, according to the respondents, as would appear from the facts, noticed above, by judgment of the civil Court in T.S. No. 120 of 1990 both the elections either held on October 24, 1989 or the order on August 24, 1990 were declared illegal and invalid. Therefore, only the names of the office bearers elected on August 5, 1987 continued in the register of the Trade Unions maintained by the Registrar. The civil Court also while declaring both the elections illegal, had approved the names of office bearers elected on August 5, 1987. Therefore, having regard to the provisions of Section 28 of the Act, the Registrar had full jurisdiction to intimate the list of such office bearers to all concerned. It would be wrong to interpret that by the impugned communication, the Registrar had issued a direction authorising Mr. Shrivastava to hold election. That apart, the prayer of the petitioner to restrain Mr. Shrivastava from conducting election was also rejected by the appellate Court in the title appeal, which has already been filed against the judgment of the civil Court.

8. In the facts and circumstances of the case, therefore, the sole question that has been raised for consideration is whether the Registrar, Trade Unions in exercise of the powers conferred u/s 28 of the Act had the jurisdiction to authorise Shri Srivastava (respondent No. 4) to hold the election of office bearers of the Union.

9. In my view, having regard to various decisions of the Supreme Court as well as that reported in 1995 1 PLJR 400, such question is no longer res integra. It

has already been settled that in a dispute between two rival factions claiming to be the office bearers of a Union, the Registrar, Trade Unions has no authority to adjudicate as to which group of office bearers was validly elected nor he has any jurisdiction to direct the office bearers to hold election or nominate his nominee to supervise the election. Because none of such functions has been provided for the Registrar by the Legislatures under the provisions of the Act. Therefore, such disputes can only be resolved by means of a suit before the Civil Court. Besides the Patna decision, reference in this regard can also be made to the decisions of the Andhra Pradesh High Court in the case of Sanjeeva Reddy v. Registrar of Trade Unions and Anr. 1989 I LLJ 11 and the other of the Madras High Court in the case of R. Murugesan Vs. Union Territory of Pondicherry and Others, . In both these cases, it was held that enquiry made for the purpose of Section 28(2) of the Act is purely administrative in character and cannot finally adjudicate on the claims of the parties. He also cannot recognise any person or group of persons nor divest such persons of any legal right to have been legally elected. Because dispute concerning an election has to be adjudicated before the appropriate forum and the decision of the Registrar, if any, cannot be a bar to such proceedings.

10. Learned Counsel appearing for the respondents also fairly agreed to the views expressed either by this Court or the other Courts, which I have just referred and accepted that it is the civil Court alone which can resolve the dispute in suit. But according to him, the impugned letter of the Registrar in no way can be construed as a directive to the office bearers to conduct election. It was a mere intimation to all concerned with regard to the names of the office bearers maintained in the Register. The elections held in the year 1989 or 1990 having been declared illegal by the civil Court, names of only those office bearers were available who were elected on August 5, 1987, hence the impugned communication.

11. He contended that the claim of the petitioner with regard to the election held on May 28, 1992 or 1996 is completely baseless. Because the moment the election of the office bearers held on August 24, 1990 was declared illegal, it was not open to the same body to hold another election in the year 1992. Therefore, the Registrar, Trade Unions had no option but to issue notice to the officers who were elected in the year 1987.

12. This cannot be ignored that claim of the petitioners with regard to the elections held in the year 1992 or 1996 was brought to the notice of this Court or the Apex Court on earlier occasion but admittedly there was no occasion to record any finding either way since no relief was sought for in this regard. In this case also, having regard to the limited issue as raised above, there cannot be any scope to record any finding with regard to the validity of such elections.

13. Therefore, having regard to the findings recorded above about the powers of the Registrar u/s 28 of the Act, and the ratio of the cases which I have already noticed, the impugned communication contained in Annexure 5 cannot be

construed a direction or authorisation for holding election. The validity of any election, if held, on the basis of such a list of office- bearers as mentioned in Annexure 5 which contains names of dead office bearers, including the President, Executive President and Vice Presidents, cannot be examined in this case. Similarly, having regard to the claim of the petitioner regarding elections held in the years 1992 and 1996, whether Mr. Shrivastava (respondent No. 4) was entitled to convene the meeting of the Union for holding elections can also be a relevant question which in my view, cannot be examined in this writ jurisdiction.

14. For the reasons stated above as also having regard to the decisions as reported in 1995 (1) PLJR 400 and in the case of Mukund Ram Tanti Vs. S.I. Raza, Registrar, Trade Unions and Others, it is clear that an inquiry by the Registrar u/s 28 of the Act is necessary for the purpose of maintenance of records in his office to facilitate the administration under the Act. Therefore, the impugned directive dated January 11, 1996 (Annexure-5) cannot confer any right on the party or parties to represent the Union nor it can divest such parties of the power.

15. In the result, answering the question in favour of the petitioners to the extent indicated above, this writ application is allowed but without any order as to costs.