
(1995) 07 PAT CK 0037
In the Patna High Court
Case No : C.W.J.C. No. 10515 of 1994

Chandradeep Mandal and Another

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 20-07-1995

Acts Referred:

Citation : (1995) 07 PAT CK 0037

Final Decision : Dismissed

Judgement

Aftab Alam, J.—The Petitioners, seek to challenge the election process initiated by the Registrar, Trade Unions, in order to determine the rightful office bearers of the Bihar State Electric Supply Workers Union (Registration No. 569) following an agreement among all its disputing factions.

2. During the pendency of this writ petition, the committee constituted to conduct the election, on the basis of the election results, declared vide its memo No. 1190, dated 02.12.94, the faction led by Chakradhar Prasad Singh as the duly elected and the rightful representative of the Union.

3. Before the declaration of the election results the Registrar by his order, dated 30.11.93, had rejected, after a detailed examination, the objections raised. By Sidheshwar Prasad Singh (leader of another faction) against the conduct of the election. The declaration of the election results along with the Registrar's order, dated 30.11.93, have together been brought on the record as Annexure-20 to a supplementary petition and also come under challenge. Although the election and its result have been challenged on a number of grounds such as irregularities committed in the preparation of the electoral roll, deviations from the provisions of the Union's constitution, etc. Mr. Rajiv Roy, learned Counsel for the Petitioners, in course of his argument, very rightly, admitted that those objections fell beyond the domain of a writ court. He, accordingly, confined his submissions to the question of jurisdiction of the Registrar, Trade Unions, and submitted that under the Trade Union Act, the Registrar had no authority or jurisdiction to hold the election of Union and to declare on the basis of that

election one of the disputing factions as the lawfully elected representative of the Union. In support of his submission, Mr. Roy heavily relied upon a Bench decision of this Court in the case of Bokaro Steel Workers' Union and Anr. v. The State of Bihar and Ors. 1995 (1) PLJR 400. In that decision (of which I happen to be the author) it was held that the Registrar could not direct the holding of election of office bearers of a trade union under his or his nominee's supervision. It will be seen presently how far that decision applies to the facts of the present case.

4. The two writ Petitioners, in this writ petition, do not claim to be the office bearers of the Union or of any of its factions. They describe themselves as members of the Union and claim to have filed this petition, "in representative capacity and in public interest". It is further to be noted that the other factions of the Union, who lost out in the election, have not come forward to challenge the election or its results. It is true that Respondents 4, 5 and 6 (the factions losing out in the election) have filed a common counter affidavit indirectly supporting the Petitioners and obliquely challenging the election results. The fact, however, remains that those factions have not directly challenged either the initiation of the election or its results either jointly or severally.

5. From the statements made in the writ petition it appears that more than two decades ago an intra-union dispute had arisen in the Union when it was divided into two factions one led by Durga Bagchchi and the other by Chkradhar Prasad Singh. It appears that with the passing of time the factionalism in the union worsened and at the material time there were four factions, each led by its own leader. It also appears that each of the disputing factions were operating under the name of the Bihar State Electric Supply Workers Union under registration No. 569.

6. After a prolonged negotiation to resolve the dispute, the four disputing factions in a meeting held in the office of the Registrar, Trade Unions, on 26.07.94, agreed that an election be held under the supervision of the officials of the Labour Department and its result should finally determine the rightful representative of the Union. The minutes of that meeting are to be found at Annexure-6; the minutes not only record the presence and participation of the representatives of all the four factions but also record their agreement to the holding of the election and the manner in which the election was to be conducted. It is, thus, evident that in holding the election the Registrar was only carrying out an agreed decision.

7. Having heard Mr. Rajiv Roy, learned Counsel for the Petitioner, and having perused the writ petition, I fail to see how can the Petitioners challenge the election and its result through this writ petition filed "in representative capacity and in public interest". In my opinion, this writ petition must be held to be not maintainable and it is fit to be rejected on that score alone.

8. However, on merits also the Petitioners have no ground to challenge the election or its results. In my view the reliance placed by Mr. Roy on the Bokaro

Steel Workers Union's case is quite misconceived. In that case the contending groups in the Union had not consented to submit their dispute to be resolved by an election conducted under the supervision of the Registrar, Trade Unions, but the Registrar had sought to thrust his decision upon the contending groups in the Union and in that circumstance it was found and held that the Registrar had no authority or jurisdiction to impose his decision on the disputing factions. Here the situation is entirely different and the disputing factions have themselves consented to submit the dispute to be resolved by the Registrar. Mr. Roy submitted that in the absence of any provision in the Trade Unions Act the consent of the disputing parties would not clothe the Registrar with any authority and the action taken by the Registrar will be illegal and without jurisdiction notwithstanding the parties consent.

9. In my view the point is no longer *res integra* and it stands concluded by a Division Bench decision of this Court in the case of *Mukund Ram Tanti Vs. S.I. Raza, Registrar, Trade Unions and Others*, (see paragraphs 2 and 3).

10. I, thus, find no substance in Mr. Roy's submission.

11. Mrs. Mridula Mishra, learned Counsel appearing on behalf of Respondents 4 to 6, submitted that though the Respondents had participated in the meeting held on 26.07.94, they were not signatories to its proceeding. The implication, perhaps, is that the decision was not binding on the Respondents. Although I am not required to consider this submission in any detail as in this case the Respondents are not challenging the election results, it *prima facie* appears that the objection is wholly without substance. The minutes of a meeting are usually prepared in the manner in which Annexure-6 has been drawn up. The minutes record the presence and participation of the Respondents and, in so many words, records that all the disputing factions agreed to the holding of the election. It may further be noted that while the election process was underway the Respondents had filed a writ petition before the Ranchi Bench of this Court which was registered as C.W.J.C. No. 2786 of 1994 (R). That writ petition was disposed of by a Bench of this Court by order, dated 10.11.1994 (copy at Court by order, dated 10.11.1994 (copy at Annexure-1). From that order it appears that the Respondents (writ Petitioners in that case) had made a grievance before this Court that the election was being conducted in a manner different from the one agreed upon between the parties in the meeting, dated 26.07.94. In that writ petition it was not the case of the Respondents that the decision to hold the election was not binding upon them as they were not signatories to the proceeding of that meeting.

12. For the reasons, aforesaid, I am of the considered opinion that no case has been made out for any interference by this Court. I find no merit in this application and, accordingly, it is dismissed in *limine*.