

(2015) 02 AHC CK 0061

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 10794 of 2015

Chaudhary Raj Kumar Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 24-02-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Trade Unions Act, 1926 — Section 11, 28, 28(2), 28(3), 28(4)

Citation : (2015) 2 ADJ 785 : (2015) 145 FLR 447

Hon'ble Judges : Surya Prakash Kesarwani, J.

Bench : Single Bench

Advocate : Dhiraj Srivastava, for the Appellant; Anoop Trivedi, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Surya Prakash Kesarwani, J.—Heard Sri B.K. Srivastava, learned Senior Advocate, assisted by Sri Dheeraj Srivastava, learned counsel for the petitioners, Sri K.K. Rai, learned Additional Chief Standing Counsel for the respondent No. 1 and 3 and Sri Anoop Dwivedi learned counsel for the respondent No. 4. With the consent of learned counsel for the parties, this writ petition is being disposed of finally without calling for a counter-affidavit.

2. Learned counsel for the respondent No. 4 has raised preliminary objections as under:

(i) Writ petition for the relief sought is not maintainable and the proper remedy, if any, is to file a civil suit.

(ii) Petitioners being ex office bearers and members of the respondent No. 4 trade union has no locus standi to file the present writ petition.

3. Petitioners have filed this writ petition, praying for the following reliefs:

(i) Issue writ, order or direction in the nature of certiorari, quashing the

impugned order dated 27.11.2014 passed by the respondent No. 3 (Annexure 25 to the writ petition), pertaining to process of election which is contrary to clause 36 of approved byelaws.

(ii) Issue a writ order or direction in the nature of mandamus, commanding the respondent No. 3 to consider and decide the petitioners' objection/representation dated 1.11.2014 and 29.11.2014 (Annexure 15 and 26) respectively to the writ petition vide reasoned and speaking order, within reasonable time to be specified by this Hon"ble Court.

(iii) Issue a writ, order or direction in the nature of mandamus, commanding the respondent No. 3 to make enquiry to the serious complaint/objection and if the same are found to be correct, to ensure the election of Noida Employees Association through secret ballot as per byelaws, within reasonable time, specified by this Hon"ble Court.

(iv) Issue any other writ, order or direction as this Hon"ble Court may deem fit and proper in the circumstances of the case.

(v) Award the cost of present writ petition in favour of the petitioners.

4. Briefly stated the facts of the present case are that the respondent No. 4 is a registered Trade Union under the provisions of Section 8 of the Trade Union Act, 1926 (hereinafter referred to as the "Act") bearing Registration No. 7244/1989. The said registration was duly renewed from time to time and lastly it was renewed on 28.7.2012 for a period of five years. The said trade union has its own byelaws. In paragraph No. 7 of the writ petition it is stated that petitioner No. 1 is the Ex-president and the petitioner No. 2 is the Ex-Secretary. Both are members of the respondent No. 4 Trade Union.

5. The case of the petitioners is that petitioners' right and interest to contest and participate in the election has been directly and substantially affected by the process of election adopted by the respondent No. 4 which is in contravention of Clause 36 of the approved byelaws.

6. It appears that the election of respondent No. 4 trade union was notified and the date of holding election was fixed as 31st October, 2014. After notification of the election as aforementioned, the petitioners filed a Writ Petition No. 57030 of 2014 praying for a writ, order or direction in the nature of mandamus directing the respondents to decide the representation dated 29.9.2014 and to direct the Registrar, Trade Union to hold the election of the Committee of Management of the petitioners within specified period. On 28th October, 2014, petitioners withdrew the said writ petition and as such it was dismissed as withdrawn. The order dated 28th October, 2014 passed in Writ Petition No. 57030/2014 is reproduced below:

"After the matter was argued at some length, learned counsel for the petitioners submitted that the writ petition may be dismissed as not pressed with liberty to file a fresh after impleading the necessary party.

The writ petition is dismissed with the aforesaid liberty."

7. Thereafter, the petitioners raised no objection and allowed the election to be held on 31st October, 2014. In the election so held one Chaudhari Kushal Pal Singh was elected as president and Sri Ashok Kumar Sharma was elected as General Secretary. The list of newly elected office bearers was forwarded by the out going President and General Secretary of the respondent No. 4 Trade Union to the respondent No. 3 in Form "J", under Section 28(2) read with Section 8 of the Act, on which an administrative order dated 27.11.2014 was passed by the respondent No. 3 communicating the respondent No. 4 that the changes in the office bearers have been recorded. Aggrieved with this order, the petitioners have filed the present writ petition.

8. It is relevant to mention that prior to filing of the present writ petition, the petitioners have also filed another Writ C No. 66987 of 2014 on 8th December, 2014 and the following order was passed by this Court on 10th December, 2014:

"Heard Shri B.K. Srivastava, Senior Counsel assisted by Shri Dhiraj Srivastava for the petitioner.

Shri Anoop Trivedi, learned counsel for the respondent Nos. 6 and 7 has raised a preliminary objection regarding maintainability of the present writ petition on the ground that the petitioner has not made proper array of parties in the writ petition. The present writ petition has been filed by Noida Employees Association through its Ex-President Chaudhary Raj Kumar Singh and he himself has been arrayed as petitioner No. 2 and while in the body of the writ petition specially in paras 7 and 8, the details have been averred regarding the present status of the office bearers of the Noida Employees Association. The same is reproduced as below:

"7. That the petitioner No. 2 is the outgoing General Secretary of the Union and has been authorized by the 1002 members of the union to file the present writ petition.

8. That the last election of the office bearers of the union was held on 19.3.2012 for a period of one year in which, Shri Kushal Pal Singh and Ashok Kumar Sharma were unanimously elected as President and Secretary of the Union."

Shri Anoop Trivedi has also raised that the petitioner has only remedy available to him to approach the Civil Court regarding redressal of his grievance and the writ petition cannot be entertained.

In the aforesaid facts and circumstances, Shri B.K. Srivastava, Senior Counsel prays for some reasonable time so that necessary amendment/supplementary-affidavit may be filed in the matter.

Put up as fresh on 15.12.2014, showing the name of Shri Anoop Trivedi, learned counsel for the respondents."

9. However, on 10th February, 2015, the said writ petition was dismissed as not

pressed with liberty to file a fresh writ petition.

10. Learned counsel for the petitioners submits as under:

(i) Rule of alternative remedy is not applicable on the facts of the present case, as it is the discretion of the Court to entertain the writ petition.

(ii) Petitioners are merely members of respondent No. 4 and have not raised any rival claim.

(iii) Since, petitioner's rights and interest is directly effected by the election held on 31st October, 2014 and the petitioners want to contest the election to be held by secret ballot papers and as such the petitioners have locus-standi.

(iv) Under the circumstances of the present case, a civil suit is not maintainable under the Code of Civil Procedure.

(v) The respondent No. 3 should have first adjudicated the dispute raised by the petitioners with respect to the elected members/office bearers and only thereafter he should have accepted the list of newly elected office bearers.

11. In support of his submission, learned Senior Advocate appearing for the petitioners has relied upon the following judgments:

(i) Harbanslal Sahnia and Another Vs. Indian Oil Corpn. Ltd. and Others, ,

(ii) Commissioner of Income Tax and Others Vs. Chhabil Dass Agarwal, ,

(iii) Committee of Management, Arya Kanya Pathshala Inter College Bulandshahar v. State of U.P. and others, (2011) 2 ADJ 65 (DB) (para 1 and 11).

(iv) K.S. Rashid and Son Vs. The Income Tax Investigation Commission etc., ,

(v) Food Corporation of India Staff Union Vs. Food Corporation of India and others, .

12. I have carefully considered the submissions of learned counsel for the parties.

13. The following questions arises for consideration in this writ petition:

(i) whether the power exercised by the Registrar trade union, under Section 8 read with Section 28 of the Trade Union Act, 1926 is an administrative power?

(ii) Whether under the facts and circumstances of the case, present writ petition is maintainable to challenge the registration of Form "J" by communication/order of the respondent No. 3 dated 27th November, 2014?

(iii) whether petitioners being members and Ex-office bearers of the respondent No. 4 Trade Union having intention to contest election; have locus standi to file the present writ petition?

14. I find that it is not in dispute that the election of the respondent No. 4 Trade Union was notified on 15th October, 2014. Petitioners have filed Writ C No.

57030/2014, which was dismissed as withdrawn on 20th October, 2014 with liberty to file a fresh after impleading the necessary parties. Thereafter, the petitioners took no action and the election of the respondent No. 4, Trade Union was held on 31st October, 2014. Much thereafter, the petitioners filed another Writ Petition No. 66987 of 2014 which was dismissed as not pressed vide order dated 10th February, 2015 with liberty to file a fresh writ petition. The petitioners who claim themselves to be the members and Ex-office bearers of the respondent No. 4 Trade Union were well aware of the election notified on 15th October, 2014 and the election held on 31st October, 2014.

15. It appears, that after the election was held and the office bearers were elected, immediate outgoing President, Secretary and newly elected President Secretary submitted an application in Form "J" alongwith list of newly elected office bearers before the respondent No. 3, under Section 8 read with Section 28 of the Act, on which the respondent No. 3 passed the order dated 27th November, 2014 registering Form "J".

16. From the perusal of copy of Form "J" annexed with the aforesaid order/letter of respondent No. 3 dated 27.11.2014, it appears that out of 1608 members of respondent No. 4 Trade Union, consensus was shown by 1055 members and on that basis the office bearers were elected. This Form "J" bears the signature of outgoing President and Secretary and the newly elected President and Secretary.

17. Sub-Section 8 and Section 28 of the Trade Unions Act, 1926 are the relevant provisions which are reproduced below:

Section 8. Registration.--The Registrar, on being satisfied that the trade union has complied with all the requirements of this Act in regard to registration, shall register the trade union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the trade union contained in the statement accompanying the application for registration."

Section 28 Returns.--"(1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered trade union during the year ending on the 31st day of 25[December] next preceding such prescribed date, and of the assets and liabilities of the trade union existing on such 31st day of 25[December]. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement there shall be sent to the Registrar a statement showing changes of 26[office-bearers] made by the trade union during the year to which the general statement refers together also with a copy of the rules of the trade union corrected up to the date of the dispatch thereof to the Registrar.

(3) A copy of every alteration made in the rules of a registered trade union shall be sent to the Registrar within fifteen days of the making of the alteration.

13[(4) For the Purpose of examining the documents referred to in subsections (1), (2) and (3), the Registrar, or any officer authorized by him by general or special order, may at all reasonable times, inspect the certificate of registration, account books, registers, and other documents, relating to a trade union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than ten miles from the registered office of a trade union.]".

18. From the bare reading of the aforesaid two provisions, it is evident that the powers conferred under Section 8 read with Section 28 of the Act upon the Registrar is an administrative power and it cannot be extended for adjudication of election disputes. The Registrar can exercise powers which have been conferred on him under the Act, and cannot travel beyond it. While registering the change in the office bearers in Form "J" the Registrar cannot adjudicate upon any claim of the rival parties and it is always open to the parties to get their rights of election setup by them and get it adjudicated through Civil Court. However, if the Registrar refuses to register the trade union or withdraw or cancel a certificate of any registration, any person aggrieved with such an order, may file an appeal under Section 11 of the Act. Registering the change of office bearers in Form "J" is purely an administrative action. He has no authority or power under the Act to direct the holding of election of office bearers of a union under his own supervision or under the supervision of his nominee. Right to dispute an election of a trade union since has not been provided under the Act. The remedy under the original civil law i.e. filing of civil suit is the only remedy, and therefore, writ petition under Article 226 of the Constitution of India is not maintainable.

19. The above conclusion is also supported by the law laid down by Division Bench judgment of this Court in the case of *Girjashankar Shukla and others v. Hindustan Aeronautics Ltd. Amethi, Sultanpur and others*, 2007 (114) FLR 332 (para 15 and 16)] and a Single Judge judgment of this Court in the case of *North Eastern Railway Employees' Union and Others Vs. Deputy Labour Commissioner/Deputy Registrar of Trade Unions and Others*, and in the case of *North Eastern Railway Mazdoor Union, Rail Mazdoor Bhawan, Gorakhpur v. Registrar of Trade Unins Kanpurand others*, 1969 L and I C 209.

20. In the case of *North Eastern Railway Employees Union and others v. Deputy Labour Commissioner/Deputy Registrar of Trade Unions, Gorakhpur and others* (supra) this Court held as under:

"11. The view taken by the Registrar registering or refusal to register the change in the office bearers in Form "J" does not require any interference as it does not adjudicate upon any of the rights of the rival parties and it is always open to the parties to get their rights/elections set up by them adjudicated upon through Civil Court or as laid down in the Government order which is subject-matter of challenge in Writ Petition No. 26300 of 2002 before the District Judge in appeal. Apart from the Government order which provides that there is a provision of

appeal so far as registering change of office-bearers in Form "J" or refusal to register change of office-bearers in Form "J" having been held by this Court to be purely administrative action as held by this Court in the decision in North Eastern Railway Mazdoor Union, Rail Mazdoor Bhawan, Gorakhpur v. Registrar of Trade Unions, Kanpur and others, 1969 L and C 209. The view taken by this Court in the aforesaid decision finds support from the decision in 1995 (71) FLR 257. wherein a Division Bench of the Patna High Court while interpreting the provisions of Sections 8 and 28 has approved the earlier Division Bench's decision of the Patna High Court and also the decision of this Court, referred to above, in 1969 L and C 209 and giving reference to the view taken by the Madras High Court, Andhra Pradesh High Court and the Calcutta High Court came to the conclusion as under:

"On an examination and analysis of the Patna decision in Mukund Ram Tanti's case (supra), the Allahabad, Andhra and the Madras decisions, I come to the following conclusions:

- (i) In a dispute between two rival factions claiming to be the officer-bearers of a Trade Union, it is open to the Registrar to hold an enquiry for the purpose of maintaining and updating the register as required to be maintained under Section 8 of the Act.
- (ii) His decision in this regard shall neither confer any right on any person or group of persons nor divest any person or group of persons of any lawful rights.
- (iii) Consequently the Registrar has no authority or power to issue any direction asking/advising the Labour Department of the Government or the employer to recognise and treat any particular person or group of persons as the duly elected office-bearers of the union in dealing with that union.
- (iv) The Registrar, Trade Unions, has no authority or power to direct the holding of election of the office-bearers of a union under his own supervision or under the supervision of his nominee.
- (v) In the absence of any provision in the Trade Unions Act, 1926, any dispute of this kind can only be resolved by means of a suit filed before a Civil Court.
- (vi) The adjudication in a suit at least in this State is normally a slow and time consuming process and does not constitute a wholly satisfactory remedy for resolving the dispute.
- (vii) The Legislature will, therefore, be well advised to address itself to this lacuna in the Trade Unions Act and to take steps to remedy it which has been longer over due."

"14. In this view of the matter, right to dispute an election of a Trade Union since has not been conferred under the Statute, namely, Trade Unions Act, remedy under the original civil law, i.e., filing of civil suit is the only remedy and since that remedy is available, this Court in exercise of power under Article 226 of the

Constitution of India will not interfere with either register in the change of office-bearers or refusal to register the change of the office-bearers by the Registrar of the Trade Union in Form "J."

21. In the case of Roadways Mazdoor Sabha, Uttar Pradesh and Another Vs. State of U.P. and Others, this Court held as under:

"7. The nature of enquiry to be conducted under the Regulation has now been settled by judgments of this Court, which we may gainfully advert to. In North-Eastern Railway Mazdoor Union, Rail Mazdoor Bhawan, Alinagar, Gorakhpur v. Registrar of Trade Unions, Kanpur and others, 1969 Lab IC 209, a learned Single Judge of this Court on consideration of Regulation 17-A of the Regulations was pleased to hold that on rival lists of office bearers being submitted in Form "J" to the Registrar, the Registrar has no power to hold a quasi judicial enquiry. There is no power conferred by the Act on the Registrar to adjudicate upon a dispute between rival groups of Trade Union. The Court further observed that though the Registrar is invested with the quasi judicial powers in registration of Trade Unions or cancellation of such registration, yet he has only an administrative power to record and enter in a register such changes in the office bearers and when there be a dispute as to who are the office bearers of the Trade Union, it is the Civil Court which would have jurisdiction.

In IFFCO Phulpur Karmchari Sangh Vs. Registrar of Trade Unions and Others, , a learned Division Bench of this Court had also the occasion to consider that issue. Reference was made to the judgment in North-Eastern Railway Mazdoor Union (supra) and the learned Bench went on to observe that the discretion vested in the Registrar under Regulation 17-A of the Regulations regarding effecting changes in the office bearers is not quasi judicial in nature. It is purely administrative. No party is entitled to lead evidence or to cross-examine witnesses. Further Section 28(3) read with Regulation 17-A does not contemplate holding of any elaborate enquiry as is required in the case of judicial or quasi-judicial proceedings. The nature of the enquiry would be summary to satisfy himself that the return accompanying the changes of office-bearers is proper and in accordance with the Rules. The satisfaction has also only to be a prima facie satisfaction.

Our attention was also invited to the judgment of another learned Single Judge of this Court in Hotel Land Mark Employees Union, Kanpur and Others Vs. Up Registrar, Trade Unions, Kanpur and Others, . In the said judgment, the learned Judge held that when there be a dispute as to who are the office bearers, the Registrar would have no jurisdiction and it will be the competent Civil Court which will have the jurisdiction.

8. The law as thus settled is that the nature of the enquiry under Regulation 17-A is administrative read with Sections 28(2) and 28(4) of the Act. The issue as to whether the Civil Court has jurisdiction when there is a dispute as to who are the office bearers, has also been considered by the Patna High Court in the case of

Singh R.N. and Another Vs. State of Bihar and Others, and Bokaro Steel Workers Union and Another Vs. The State of Bihar and Others--> , wherein it has been held that where there is a dispute regarding rival factions of Trade Union claiming to be the office bearers of the Union, it is the Civil Court which will have jurisdiction to decide the same.

We have no reason to take a different view from the view taken by the learned Division Bench and also the learned Single Judges in the aforesaid cases. The Act does not contain any provision making final the list of office bearers. The jurisdiction of the Civil Court is also not expressly or impliedly ousted, even if the names of one faction of office bearers are taken on record as the enquiry by the Registrar is limited to examine whether elections were held in terms of the Rules or bye-laws of the Trade Unions. The Registrar, therefore, does not and cannot enquire into the election process. The only limited power is to call for the records in terms of Section 28(4) of the Act and considering Regulation 17-A to make a summary enquiry considering the record whether the rules and bye-laws have been followed. The nature of the enquiry is administrative and summary. As noted in the judgment of this Court and of the Patna High Court, cited above, the jurisdiction to decide as to who are the office bearers is wholly within the domain of the Civil Court.

9. This being the position, the question for our consideration now is whether it was open to the learned Single Judge to have dismissed the petition against an order where after taking on record the Form "J", the Registrar recalled the same and then directed the parties to hold elections and that too apparently considering a direction by the State Government in the form of a D.O. Letter."

14. Once the law, as settled, as noted by the learned Single Judge himself that the dispute as to who are the office bearers can only be resolved by the Civil Court, the learned Judge was in error in upholding the order of the Registrar directing both sets of office bearers to hold fresh election, which was without jurisdiction or authority of law. The Registrar under the Act or the rules has no power to direct the Trade Union to hold election. The only power in him is to register a Trade Union or cancel the registration of a Trade Union according to law. The answer to the third question would therefore, be that there is no such power. The only power is to consider Form "J" as per law."

22. In the case of Committee of Management, Sri Kachcha Baba Inter College and Others Vs. Regional Committee Pancham Mandal and Others, , a learned Single Judge of this Court followed the Division Bench Judgment in the case of Committee of Management, Kisan Shiksha Sadan, Banksahi, Basti and another v. Assistant Registrar, Firms Societies and Chits, Gorakhpur Region, Gorakhpur, (1995) UPLBEC 1242 and held that it is not open for a member of the society to challenge in a writ jurisdiction the list of members determined by the authority. The proper course open to him was to approach the Civil Court and to seek an appropriate relief.

23. In the case of Committee of Management, Vaidik Inter College and another v. State of U.P. and others, 2010 (6) ADJ 595 (para 52 and 53) it was held as under:

"52. This decision, thus, lays down that the petitioners/appellants, who were merely members of the Society, did not have any right to agitate the result of the election of the Committee of Management as they had no locus standi to challenge the result of the election on the ground that they were not permitted to participate in the election.

In Committee of Management, Sri Kachcha Baba Inter College and Others Vs. Regional Committee Pancham Mandal and Others, , the Writ Petition was filed by certain members of the General Body challenging the decision of the Regional Level Committee recognizing the election of the Committee of Management. This Court held that the petitioners had no locus standi and the Writ Petition at their instance was not maintainable. It was observed as under (paragraphs 7, 8, 9 and 10 of the said ESC):

"7. In support of his contention, the learned counsel for the respondents placed reliance upon a decision of a Division Bench of this Court in Committee of Management, Jangali Baba Intermediate College Garwar, district Ballia and another v. Deputy Director of Education, Vth Region, Varanasi and others, (1991) 2 UPLBEC 1183, as well as a decision of a learned Single Judge of this Court in Committee of Management, Lakhori Inter College and Another Vs. District Inspector of Schools, Moradabad and Others, .

8. Having given my thoughtful consideration in the matter this Court is of the opinion, that the petitioners are not entitled for any relief. The writ petition is not maintainable.

9. In Dr. P.S. Rastogi v. Meerut University, Meerut, (1977) 1 UPLBEC 415, it was held that an individual member of the committee of management had no locus standi to file a petition. Similar view was held by a learned Single Judge in the case of Bhagwan Kaushik v. State of U.P. and others (supra). A Division Bench in Anjani Kumar Mishra's case (supra) in Special Appeal also held that the members of a society had no right to agitate the result of the elections, as they had no locus standi to challenge the result of the elections. In the present case, the petitioners are the members of the general body. It is not a rival committee of management as alleged by them in the writ petition, inasmuch as admittedly, the authorised controller was managing the affairs of the administration since the year 1996. The elections were conducted by the authorised controller. Consequently, the petitioners cannot be held to be the rival committee of management. The petitioners are none other than the members of the general body of the society and, in view of the decisions of this Court, they have no locus standi to file the present writ petition. Further, in my opinion, the list of electoral college which has been finalised by the authorised controller and affirmed by the regional committee is based on findings of fact which cannot be interfered in a writ jurisdiction.

10. In *Committee of Management, Kisan Shiksha Sadan, Banksahi, Basti and another v. Assistant Registrar, Firms, Societies and Chits, Gorakhpur Region, Gorakhpur*, (1995) UPLBEC 1242, a Division Bench of this Court held:

"The list of members determined by the authority was not open for a member of the society to challenge in a writ jurisdiction and the proper course open to him was to approach the Civil Court and seek an appropriate relief. In my view also, the appropriate remedy to challenge the determination of the list of the electoral college cannot be adjudicated in a writ jurisdiction under Article 226 of the Constitution of India and the appropriate remedy for the petitioners is to file a civil suit."

(Emphasis supplied)

6. In *Amanullah Khan case (supra)*, the petitioner claiming to be a member of the General Body of the Society filed the Writ Petition challenging the decision of the Regional Level Committee approving the elections of the Committee of Management. This Court dismissing the Writ Petition held as under (paragraph 19 of the said ESC):

"19. The enquiry regarding validity of the elections, where no rival committee has been set up, has to be confined under Section 16-A(7) of the U.P. Intermediate Education Act, 1921, is confined only to find out whether the valid members of the society have elected a Committee of Management, which is in effective control of the affairs of the educational institution. In such a case the rights of the individual members of the society do not extend to file a writ petition to challenge the elections, the decision of the Regional Level Committee and the orders of the Joint Director of Education. The Court would be slow to examine these complaints made by individual members to the validity of the elections. Similar views were taken by this Court in *Committee of Management, Sri Kachcha Baba Inter College and Others Vs. Regional Committee Pancham Mandal and Others*, , following the Full Bench decision of this Court in *Committee of Management, Pt. Jawaharlal Nehra Inter College and Another Vs. Deputy Director of Education and Others*, .

(Emphasis supplied)

53. This decision, thus, lays down that the individual member of the Society has no locus standi to file Writ Petition challenging the decision of the Regional Level Committee approving the elections of the Committee of Management."

24. Thus, in view of the above discussions, I have no hesitation to hold that the power exercised by the respondent No. 3 under Section 8 read with Section 28(2) of the Act is an administrative power. Petitioners being members of the respondent No. 4 trade union individually, have no right to file the present writ petition and the writ petition to challenge the registration of list of office bearers in Form "J" by the respondent No. 3 is not maintainable. Appropriate course, as may be available to the petitioners is to file a civil suit.

25. The judgment in the case of Commissioner of Income Tax and others v. Chhabil Doss Agarwal (supra) relied by learned counsel for the petitioners is wholly distinguishable on the facts of the present case. In this judgment, Hon''ble Supreme Court has carved out certain exception for entertaining the writ petition, even if an alternative remedy is available. The exceptions so carved out in the said judgment are not applicable on the facts and circumstances of the present case. In the case of Harbanslal Sahnia and another v. Indian Oil Corporation Ltd. and others (supra) relied by learned counsel for the petitioners is also distinguishable on the facts of the present case, inasmuch as, in the said judgment it has been held that the Rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. The case of Food Corporation of India Staff Union (supra) relied by learned counsel for the petitioners is also clearly distinguishable and is not applicable to the facts of the present case other judgments relied by learned counsel for the petitioners are also distinguishable. In view of the above discussions, writ petition is dismissed as not maintainable. However, there shall be no order as to cost.