
(2009) 11 AP CK 0041

In the Andhra Pradesh High Court

Case No : Writ Petition No. 23601 of 2009

Dr. Reddy's Laboratories Staff and Workers Union

APPELLANT

Vs

Joint Commissioner of Labour and Others

RESPONDENT

Date of Decision : 06-11-2009

Acts Referred:

Citation : (2010) 1 ALT 2

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : V. Sudhakar Reddy, for the Appellant; G.P., for Labour and Employment for Respondent Nos. 1 and 2, C.R. Sridharan and K. Sarva Bhouma Rao, for the Respondent

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J.—The petitioner is a Trade-Union formed by the members of staff and workers of Dr. Reddy's Laboratories, Pydi Bhimavaram Village, Srikakulam District. In the verification conducted during last year, it emerged as a majority union.

2. Respondents 1 and 2 initiated steps for recognition of the majority union. It appears that, only one more union exists, namely Dr. Reddy's Laboratories Employees and Workers Union. The 2nd respondent proposed to conduct the verification on 9-11 -2009, through secret ballot between 9.00 a.m. and 1.00 p.m. The petitioner challenges the action of the 2nd respondent and seeks a writ of Mandamus directing that the 2nd respondent has no authority to conduct verification and to set aside the proceedings, dated 24-10-2009, issued by them, in this regard. Further relief is also prayed for, to include 48 senior executives of the Laboratory in the voters' list.

3. Heard Sri V. Sudhakar Reddy, learned Counsel for the petitioner, learned Government Pleader for Labour and Employment, and Sri K. Sarva Bhouma Rao, learned Counsel for the 4th respondent.

4. The petitioner urges three grounds in this writ petition. The first is that the 2nd respondent is not competent to conduct the election and the second is that the voters' list prepared for the election is defective, inasmuch as the senior executives of the Laboratory were not included in it. The third is that the election procedure does not contain the particulars, as to the date of filing of nomination, date of withdrawal thereof etc.

5. The petitioner contends that the 1st respondent appointed the Deputy Commissioner of Labour, the 2nd respondent herein, as the authority to conduct election and verification, and that the 2nd respondent, in turn, has nominated the Assistant Commissioner of Labour, Srikakulam, by name Anand Rao, to assist him in the process of conducting election. It is stated that Anand Rao has himself issued the proceedings, dated 24-10-2009, as though he is the Deputy Commissioner of Labour.

6. It is no doubt true that the Deputy Commissioner, by name, Yella Rao, was appointed as the Verification Officer/Returning Officer by the 1st respondent, vide letter, dated 7-10-2009. The Deputy Commissioner appointed the Assistant Commissioner of Labour, Mr. Anand Rao, as Assistant Returning Officer. No specific duties were assigned to him. This much can be said that the ultimate election notification or the proceedings are to be issued by the Deputy Commissioner of Labour i.e., the 2nd respondent.

7. It is a matter of record that Anand Rao issued proceedings, dated 24-10-2009, proposing to conduct election, on 9-11-2009. If this notification were to have been issued by Anand Rao, in his capacity as Assistant Commissioner of Labour, there should not have been any difficulty in setting aside the notification. It is, however, not in dispute that the Deputy Commissioner is on leave, and the Assistant Commissioner is officiating the office of the 2nd respondent. Therefore, it emerges that the notification, though issued in the name of Anand Rao, it is in his capacity as Deputy Commissioner. Therefore, the first ground urged by the petitioner cannot be accepted.

8. The second ground is, about the non-inclusion of the senior executives of the Laboratory in the voters' list. Detailed examination of this entire issue was undertaken, on 21-10-2009. The contentions put forward by the concerned parties were taken into account and the 2nd respondent has passed an elaborate order, holding that the senior executives cannot be treated as workers. He referred to the fact that in the previous election, in which the petitioner was elected as the majority union, senior executives were not included.

9. On behalf of the petitioner, it is contended that quite large number of senior executives have since joined as members of it. Reference is also made to a dispute raised by the petitioner, in relation to the transfer of nine senior executives and the report submitted by the Conciliation Officer. On that basis, it is stated that the very fact, that a dispute was entertained in relation to senior executives, would enable them to be included in the voter's list, by treating

them as workers. This contention is wholly without basis.

10. The mere fact that certain senior executives have chosen to become the members of the petitioner, does not have any effect on their classification. Equally irrelevant is the fact that the petitioner raised an industrial dispute before the Conciliation Officer about the transfer of the senior executives from Srikakulam to Hyderabad. A specific mention was made in the report of the Conciliation Officer that the management has raised a strong objection for the very dispute on the ground that the senior executives cannot be treated as workmen. At any rate, the issue, as regards classification, could have been raised before a proper forum, only at the instance of the senior executives by themselves and not at the instance of the petitioner. Therefore, the second ground urged by the petitioner is untenable.

11. The last ground is about the procedure to be followed in the election. The election notification, dated 24-10-2009, furnishes the precise programme. At the end, it was mentioned that the General Rules regarding election are enclosed. The department has a set of Rules, which are to be followed, in the matter of verification. It is not as if the department has undertaken election or verification, for the first time.

12. Reliance is placed by the petitioner on a judgment of the Supreme Court, in Food Corporation of India Staff Union Vs. Food Corporation of India and others, , which related to the Employees of the Food Corporation of India. A totally different set of Rules were applicable to it, and the facts of that case cannot be compared to those in the present case. One important factor is that, it was through the same procedure, as indicated in the notification, dated 24-10-2009, that the petitioner came to be elected, as a majority union. For the past one year, the petitioner did not take any steps to get the procedure altered, or to declare that the procedure, through which it was elected, was not proper. The petitioner cannot approbate and reprobate. Viewed from any angle, no relief can be granted to the petitioner.

13. The writ petition is accordingly dismissed. It is, however, directed that, it shall be open to the senior executives or the petitioner-Union to approach the proper forum to declare that they are to be treated as workmen, and to be included in the voters' list, for the elections to be held in the next year.

14. There shall be no order as to costs.