

(2013) 04 AHC CK 0216

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 14420 of 2011

Fero Lite Highlight Kamgar Union

APPELLANT

Vs

Registrar and Others

RESPONDENT

Date of Decision : 15-04-2013

Acts Referred:

Trade Unions Act, 1926 — Section 10, 8

Citation : (2013) 5 ADJ 448 : (2013) 6 ALJ 51 : (2013) 137 FLR 1024 : (2013) 3 LLN 475 : (2013) LLR 823

Hon'ble Judges : Tarun Agarwala, J

Bench : Single Bench

Advocate : Shyam Narain, Gopal Narain and Sudhanshu Narain, for the Appellant; Shashi Nandan, C.S.C. and Satyender Kr. Singh, for the Respondent

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—It transpires that election of the Trade Union was conducted and upon the declaration of the result, the Union filed a list of office bearers before the Registrar of the Trade Unions, u/s 8 of the Trade Unions Act, 1926. The Registrar, upon being satisfied that the various requirements of the Acts were duly complied with, accepted the application of the Union and registered the particulars of the Trade Union. It transpires that 65 workers filed their separate affidavits before the Registrar claiming that the election conducted by the Union was a fraud and that the registration of the names of the office bearers of the Trade Union was liable to be set aside. Upon receipt of the said affidavits, the Registrar directed an investigation into the matter and, upon inquiry, the Registrar found that a majority of the complaint filed through various affidavits were true. The Registrar, Trade Union, by an order dated 8.12.2010 held that since a fraud was played upon the authority, the registration given u/s 10 of the Act stood cancelled. The petitioner-Union being aggrieved by the said order has filed the present writ petition.

2. Sri Sudhansu Narain, the learned Counsel for the petitioner contended that

the Registrar, Trade Union, had only passed an administrative order while registering the names of the office bearers u/s 8 of the Act and consequently, had no power to recall its order. In support of his submission, the learned Counsel for the petitioner has relied upon a decision of the Division Bench of this Court in *Roadways Mazdoor Sabha, Uttar Pradesh and Another Vs. State of U.P. and Others*, .

3. Having perused the said judgment, the Court finds that the said decision is not helpful to the petitioner. In the said case, the Registrar had exercised the power u/s 28 of the U.P. Trade Unions Act, read with Regulation 17-A of the U.P. Trade Union Regulations, which relates to the filing of the returns by a Union. The Registrar had subsequently recalled its order. In that light, the Division Bench of this Court held, that the Registrar was purely exercising an administrative order and could only recall its order in the event fraud was patent and apparent from the record.

4. In the instant case, the name of the Trade Union has been registered u/s 8 of the Act and, upon a complaint being made, the Registrar has the power to cancel the registration u/s 10 of the Act after making due inquiry. The power to cancel the registration has been given by the statute and therefore, it does not lie in the mouth of the petitioner to contend that the Registrar does not have any power. The power to cancel a registration is different and distinct from the power to recall its own order. Even otherwise, the Court finds that the Registrar has found that fraud was played upon the authority. The Division Bench of this Court in the case of *Roadways Mazdoor Sabha (supra)*, has clearly held that where fraud has been played or illegality was committed in the election of the office bearers, the Registrar has the power to recall its order.

5. The Court further finds that the complainants, who had filed the affidavits, have not been arrayed as parties. The Court is of the opinion, that these persons were necessary parties and for non-joinder of necessary parties, the writ petition was also liable to be dismissed. In the light of the aforesaid, this Court does not find any error in the impugned order. The writ petition fails and is dismissed.