
(1969) 05 AHC CK 0011

In the Allahabad High Court

Case No : Civil Miscellaneous Writ No. 3854 of 1964

Jagdish Prasad and Another

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 15-05-1969

Acts Referred:

Uttar Pradesh Industrial Disputes Act, 1947 — Section 2, 6

Citation : AIR 1971 All 285

Hon'ble Judges : H.C.P. Tripathi, J

Bench : Single Bench

Advocate : S.C. Khare and N.C. Upadhaya, for the Appellant; Ashok Gupta and B.L. Gupta, for the Respondent

Final Decision : Dismissed

Judgement

H.C.P. Tripathi, J.—In this petition, the main relief claimed is "that a writ of certiorari/ mandamus or other appropriate writ or direction be issued setting aside the orders of the Additional Regional Conciliation Officer registering the settlement between respondents Nos. 3 and 4, and refusing petitioners 1 and 2 to represent the workmen in the conciliation proceedings."

2. This petition was admitted on 20th August, 1964, and an ex parte order was passed directing that "until further order the operation of the settlement dated August 5, 1964, is suspended."

3. On 4th December, 1964, after hearing the learned counsel for the parties, the aforesaid order dated August 20, 1964, was vacated.

4. Hindustan Lever Mazdoor Sabha is a Trade Union registered under the Trade Unions Act, 1926, having its principal office at 112-A, Meadows Street, Fort, Bombay, and the petitioner No. 1, Jagdish Prasad, is the Secretary of the Sabha at Ghaziabad Centre. Under its constitution, the Union enrolls members solely from the workmen employed under the control of respondent No. 3, Hindustan Lever Limited and its subsidiaries. Respondent No. 3 has a factory at Ghaziabad

which is engaged in the manufacture of vanaspati and dehydrated products. The factory engages various categories of skilled and unskilled workers for the manufacture of its vanaspati products. The membership of the Union is drawn from the various categories of these workmen.

5. According to the petitioner, the Union "as the representative body of the workmen engaged by respondent No. 3 have from time to time entered into negotiations and made settlements"" with it in the several industrial disputes resulting in awards under the Industrial Disputes Act one of which had remained in force till 31st December, 1963.

6. On the expiry of the aforesaid settlement, a charter of demands was submitted by the Union on behalf of the workers to respondent No. 3. It appeal's that respondent No. 4, Lever Mazdoor Union, Loharpura, G. T. Road, Ghaziabad, is another Union of the workers at the Ghazia-bad factory. That Union also submitted a charter of demands to the employer. The Additional Regional Conciliation Officer, respondent No. 2 commenced conciliation proceedings between the Lever Mazdoor Union and the Company in regard to the demands presented on behalf of the workmen. Petitioner No. 1, as Secretary of the petitioner No. 2, at Ghaziabad centre, approached the Regional Conciliation Officer and prayed that he should be allowed to participate in the conciliation proceedings as a representative of the workmen.

On 5th August, 1964, the Additional Regional Conciliation Officer, respondent No. 2, passed the impugned order rejecting the petitioner's prayer for participating in the conciliation proceedings on behalf of the workmen on the ground that the Union could not represent the workers in view of the fact that it was registered for more trades than one. Thereafter, the Regional Conciliation Officer accepted the agreement which had been arrived at between the employer and the Lever Mazdoor Union, respondent No. 4, representing the workers relating to the industrial dispute which had been referred for conciliation.

7. Learned counsel for the petitioner has challenged the validity of the impugned order on several grounds. It is urged that there was no material before the Conciliation Officer to come to the conclusion that the petitioner No. 2 was registered for more than one trade, that the Conciliation Officer look no evidence on that point and in the absence of the petitioners passed an ex parte order rejecting their application for representation on wholly untenable grounds. It is contended that when the petitioners appeared before him on the same date, he did not vacate the ex parte order, but stuck to it on the ground that the petitioners were registered for more than one trade and thus, in a way stifled their right to represent the workmen of the factory.

It is contended that the respondent No. 4 is a pocket Union of the employers which does not represent the majority of the workers and the Regional Conciliation Officer has erred in accepting the settlement arrived at between the employer and the respondent No. 4 treating it to be a representative of the

workers. It is contended that a Trade Union is an association made for regulating the relations between the workmen and the employers and the primary purpose for forming a trade union is to enable its members to hold collective action for safeguarding their own interest. The membership of the petitioners' Union is drawn from the various categories of workers employed under the control of the respondent No. 3 in its factory at Ghaziabad and, as such, the Union is registered for one trade only and the interpretation put forward on the word "trade", as it occurs in Section 6-1 (3) of the U. P. Industrial Disputes Act, by the Regional Conciliation Officer is erroneous.

8. In the counter-affidavit filed by Ram Dham Relan on behalf of respondent No. 3, it has been averred, in paragraph 3 "that respondent No. 3 has a factory at Ghaziabad which is engaged in the manufacture of Vanaspati and Dehydrated vegetables and that workmen of different skills and categories are engaged in the manufacture and production of vanaspati, but it is denied that workers having different skills or belonging to different categories carry on different trades." It is thus, in a way, admitted that the workers, who are employed at the respondent's factory at Ghaziabad, are engaged in the same trade and not in different trades. The petitioner Union has represented the workmen in earlier conciliation proceedings, as has been mentioned in paragraph 8 of the petition, which has been admitted in the counter-affidavit filed on behalf of respondent No. 3, the employer. There was no evidence before the Regional Conciliation Officer that since then the character of the Union had changed. In my opinion, therefore, the Regional Conciliation Officer was not justified in holding that the petitioner Union was registered for more trades than one and, on that ground, rejecting its claim for representing the workmen of the concern.

9. There is another infirmity in the impugned, order of the Regional Conciliation Officer. It appears that he first passed the order in the absence of the petitioners. When the petitioners appeared before him, instead of vacating that order and hearing them on merits, he stuck to it. This was not fair.

10. Section 6-1 (3) of the U. P. Industrial Disputes Act reads:

"No officer of a Union shall be entitled to represent any party unless a period of two years has elapsed since its registration under the Indian Trade Unions Act, 1926 and the Union has been registered for one trade only:

Provided that an officer of a federation of unions may, subject to such conditions as may be prescribed, represent any party."

11. The word "Trade", in my opinion, has been used in Clause (3) in a wider sense, including the various stages of an industry which employs different categories of workers whose joint services, in their respective sphere, lead to the culmination of a finished product. For example, a Union registered for cotton trade will not only be entitled to represent the workers acting in the spinning and other departments of the cotton industry, but also in its allied projects.

12. Section 2 (k) of the U. P. Industrial Disputes Act provides that:

" "Industry" means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workman;"

13. The words "industry" and "trade" have been used as inter-changeable terms. I am, therefore, clearly of opinion that the word "trade" in the aforesaid section must be given a wider meaning. On the other hand, if the word "trade" is narrowly construed, even a single factory or establishment has workmen engaged in several trades. The canteen of a factory would have a different "trade" to the typist or accountant who, in turn, would have a different "trade" from the electrician and machine operator. This would render effective representation of the workmen impossible except through a larger multiplicity of Unions rendering collective bargaining almost impossible.

14. There is, however, another aspect to the case. The settlement which was arrived at between the respondent No. 3, the employer, and on behalf of the workers, as represented by respondent No. 4, has resulted in giving higher wages and emoluments to the workers of the Company and under that settlement, the workers have already enjoyed certain benefits. The settlement came to an end on 31st December, 1968. In these circumstances, it will neither be expedient nor in the interest of the workers to set aside the order of the Regional Conciliation Officer registering that settlement. The main relief claimed in the petition, therefore, has become infructuous by the efflux of time. While, therefore, upholding the contention of the petitioners that the impugned order of the Additional Regional Conciliation Officer dated 5th August, 1964, refusing to allow them to represent the workmen of the concern on the sole ground "that the union being registered for more trades than one cannot represent the workmen" is unjustifiable and illegal, there is no other option but to dismiss this petition.

15. In the result, the petition is dismissed, but there will be no order as to costs.