

(2003) 07 MAD CK 0223

In the Madras High Court

Case No : Writ Petition No. 3451 of 1997 and W.M.P. No's. 5784 and 8466 of 1997

Kovai Periyar Maavatta Dravida Panchalai Thozhilalar
Munnetra Sangam

APPELLANT

Vs

Commissioner of Labour (Registrar of Trade Unions) and
Others

RESPONDENT

Date of Decision : 31-07-2003

Acts Referred:

Trade Unions Act, 1926 — Section 28

Citation : (2004) 1 LLJ 6

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : C.K. Chandrasekaran, for the Appellant; N.G. Kalaiselvi, S.G.P. For Respondent Nos. 1 and 2; R. Viduthalai, for A.V. Bharathi, for the Respondent

Judgement

P.K. Misra, J.—The prayer in this writ petition is for issuing writ of mandamus directing the respondents 1 and 2, namely the Commissioner of Labour (Registrar of Trade Unions), Madras and Deputy Commissioner of Labour (Additional Registrar of Trade Unions), Coimbatore, to act in accordance with Section 28 of the Trade Unions Act, 1926, by permitting only the office bearers of the Koval Periyar Maavatta Dravida Panchalai Thozhilalar Munnetra Sangam whose names are found in the records of the second respondent as representatives of the said Sangam and not to allow any other person to represent the said Sangam in any proceedings under the various labour enactments.

2. It is not disputed that Kovai Periyar Maavatta Dravida Panchalai Thozhilalar Munnetra Sangam having Registration No. 2658 was started in the year 1958 and a certificate of registration has been issued. The union represents thousands of textile workers in various textile mills in Coimbatore and Periyar districts. The writ petition has been filed on behalf of the aforesaid union by S. Doraisamy claiming to be the General Secretary of the said union. It has been alleged that

he has been so elected in 1960 and from time to time there has been election of various office-bearers. It has been stated that in September 1996 some office bearers were elected and the deponent S. Doraisamy was elected as the General Secretary and the names of elected office-bearers have been sent to various authorities including the respondents 1 and 2. However, the respondents without following the procedure envisaged u/s 28 of the Trade Unions Act have also permitted other persons to participate in various discussions and proceedings along with the petitioner on the pretext that a civil suit pertaining to the election is pending and till the matter is decided, both the groups should be permitted to represent the workers.

3. It is the contention of the petitioner that the civil suit relates to the election in the year 1994, but does not relate to the election in the year 1996. It has been indicated that the suit filed by one Ponnusamy in the year 1994 does not have any relation to the election held in the year 1996, and therefore, the respondents 1 and 2 had no authority to permit such person in various proceedings and they are required to act u/s 28 of the Trade Unions Act.

4. It appears that the very same union purportedly represented by the General Secretary S. Parthasarathy has been subsequently impleaded as respondent No. 3. A counter-affidavit has been filed on behalf of such respondent No. 3 represented through the General Secretary S. Parthasarathy. In such counter, it has been indicated that the union was affiliated to Labour Progressive Federation, in short known as LPF, which is a central body and representing the trade union of the DMK party. It has been further indicated that after a split in DMK party in October 1993, there was also a split in the unions affiliated to LPF owing allegiance to DMK party. One group of office-bearers followed the founder leader of DMK party, whereas the splinter group identified themselves with the break-away faction headed by the expelled member Sri V. Gopalsamy. It has even further stated that the group headed by S. Doraisamy has filed a suit in D.S.No. 59 of 1994 and O.S.No. 2024 of 1994 has been filed by the group headed by Parthasarathy. It has been stated that since the suits are pending, the authorities have permitted both the groups to participate in various proceedings. It has been stated that till the matter is pending before the civil Court, the procedure adopted by the respondents 1 and 2 cannot be said to be illegal and arbitrary and requires no interference by the Court exercising jurisdiction under Article 226 of the Constitution.

5. Section 28 of the Trade Unions Act, 1926, is to the following effect:

"25. 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 31st day of December next preceding such prescribed date, and of the assets on such 31st day of 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 all changes of 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 despatch 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.

(4) For the purpose of examining the documents referred to in Sub-sections (1), (2) and (3), the Registrar, or any officer authorised 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 its registered office of a trade union."

6. It is now well settled that the provisions contained in Section 28 of the Trade Unions Act do not confer any quasi-judicial power to decide the dispute between the rival claimants and even if any decision is taken, such a decision does not have any binding force and the dispute between the rival claimants in a union can be decided by a civil Court. Such view has been expressed in *R. Murugesan v. Union Territory of Pondicherry* 1976 I LLJ 435. Similar views have been expressed in *Fateh Singh Solanki and Others Vs. Rastriya Mill Mazdoor Sangh and Others*, , *Ratan Kumar Dey and Ors. v. Union of India and Ors.* 1991 (2) LLN 506, *Bokaro Steel Workers" Union and Another Vs. State of Bihar and Others*, .

7. Since the suits at the instance of the groups are pending, action of the respondents in permitting both the groups to represent the workers in various discussions cannot be held to be arbitrary so as to warrant interference by the High Court under Article 226 of the Constitution. The contention to the effect that the petitioner alone should be allowed to represent cannot be accepted in view of various disputed questions raised in the writ petition. The course adopted by the respondents 1 and 2 appears to be justified.

8. For the aforesaid reasons, the prayer of the petitioner for issuing writ of mandamus to the respondents 1 and 2 in the manner indicated in the petition cannot be granted. Both the suits, if still pending, should be expeditiously disposed of in accordance with law.

9. Subject to the aforesaid observation, the writ petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.