

(2008) 12 MAD CK 0121

In the Madras High Court

Case No : Writ Appeal No. 1400 of 2008

K.V. Sridharan and S. Ragupathy

APPELLANT

Vs

S. Sundaramoorthy and The Principal Chief Postmaster
General

RESPONDENT

Date of Decision : 03-12-2008

Acts Referred:

Constitution of India, 1950 — Article 12
Trade Unions Act, 1926 — Section 13

Citation : (2009) 120 FLR 878 : (2009) 2 LLJ 145 : (2009) 3 MLJ 1320 : (2008) WritLR 1051

Hon'ble Judges : A.K. Ganguly, C.J;K. Chandru, J

Bench : Division Bench

Advocate : Yashod Varadhan for K.M. Ramesh, for the Appellant; R. Muthukumarasamy for S. Jenasenar, for Respondent 1, for the Respondent

Final Decision : Allowed

Judgement

A.K. Ganguly, C.J.—Heard the learned Counsel for the parties. The writ petition, out of which the present appeal arises, was filed by the

Circle Secretary, All India Postal Employees Union Group "C", Tamil Nadu Circle Branch, seeking to impugn an order dated 16.10.2008 and

also for approval of the list of Office Bearers elected on 21.3.2008 as submitted by the outgoing President and Secretary and to pass such further

or other orders.

2. It is clear from the tenor of the prayer made in the writ petition that the dispute is over the election of the Office Bearers of All India Postal

Employees Union Group "C" (hereinafter referred to as the "said Union"). The question which is of some relevance in this case is whether in

respect of disputes relating to election of such Employees" Union a writ petition

can be filed.

3. Admittedly, the said Union is a Registered Trade Union. Once a trade union is registered under the Trade Unions Act, 1926, it becomes a body

corporate u/s 13 of the said Act by the name under which it is registered and thereafter it has a perpetual succession and common seal, and has the

power to acquire and hold both movable and immovable properties and to contract and sue or be sued in the said name. Therefore, by way of

registration of a trade union under the said Act, the trade union does not become an Authority under Article 12 of the Constitution of India. It

continues to remain just a private body and all disputes relating to election of such a private body cannot be canvassed or challenged in a writ

petition. The said Act does not make any provision for recognition of such a union. Any recognition of union, even if it is a union relating to the

employees of the Central Government, is governed by some departmental circulars. Those circulars are administrative in nature and not statutory.

Therefore, those circulars also cannot be enforced in a writ petition. However, unfortunately, with regard to disputes arising out of the conduct of

elections of such trade unions for electing its Office Bearers, various writ petitions are filed before this Court and some of them are entertained. But

in none of these cases, this question has ever been discussed. At least, no such decision has been brought to the notice of this Court.

4. Learned senior Counsel appearing for the writ petitioner, the first respondent before us, in order to sustain the maintainability of the writ petition,

has drawn the attention of this Court to the Office Order dated 16.10.2008, by which an Ad hoc Committee was appointed by the Director of

Postal Service, Head Quarters. It appears from a perusal of the said order dated 16.10.2008 that the said order was passed pursuant to some

direction given by a learned single Judge of this Court. Learned senior Counsel submits that since those directions issued by a writ court have not

been challenged and those directions have become final, the present writ petition is also maintainable. We have not been told whether before

passing those orders, the writ court had any opportunity to consider this question. In fact, on a perusal of the order dated 2.9.2008 in which the

said direction was issued, which appears at page 30 of the typed set, it does not appear that this question was ever considered by the Court, when

these directions were given by a learned single Judge. Since this point has not been considered by the Court, any decision of the Court cannot be an authority on that point.

5. We, therefore, hold that all disputes relating to holding of election of such incorporated bodies, which are nothing but private bodies, cannot be challenged before the writ court. If there are disputes between the parties over such election, those disputes can be challenged, if so advised, before the appropriate civil court. Since we are of the view that the writ petition itself is not maintainable, this Court is of the opinion that no order can be passed in the writ petition on the dispute relating to the election of such trade union. It may be noted in this connection that these private bodies are not enforcing any statutory direction by filing such writ petitions inasmuch in the State of Tamil Nadu, there is no law relating to grant of recognition to a trade union, nor is there any law relating to holding of election of such trade unions. These matters are covered by general law and as such, the disputes in this regard should be settled by civil court.

6. The writ petition is, therefore, dismissed and the writ appeal is allowed on the aforesaid grounds. There will be no order as to costs.

Consequently, M.P. No. 1 of 2008 is closed.