

(1998) 04 BOM CK 0015
In the Bombay High Court
Case No : C.A.J. F.A. No. 27 of 1985

Maharashtra Industrial Development Corporation Employees" APPELLANT
Association

Vs

F. Paul, Additional Registrar of Trade Unions RESPONDENT

Date of Decision : 17-04-1998

Acts Referred:

Trade Unions Act, 1926 — Section 10, 11, 28
Trade Unions Regulations, 1927 — Regulation 17

Citation : (1998) 89 FLR 986 : (2000) 3 LLJ 595

Hon'ble Judges : D.K. Trivedi, J

Bench : Single Bench

Judgement

D.K. Trivedi, J.—The appellants Maharashtra Industrial Corporation Employees" Association has filed this appeal as provided u/s 11 of the Trade Unions Act, 1926 challenging the order passed by the Additional Registrar of Trade Unions, Bombay Dist. dated August 10, 1983 gazetted on August 9, 1984 on the ground that the order of cancellation of registration dated August 10, 1983 is passed by the authority under Sub-section (b) of Section 10 of Trade Unions Act, 1926, wherein the authority has cancelled the registration of 51 Trade Unions including the present appellant who is at serial No. 51 on the ground that the concerned Unions have wilfully and after due notice from the Registrar, continued to contravene the provisions of Section 28 of the Trade Unions Act, 1926 and Rule 17 of the Bombay Trade Unions Regulations 1927 and failed to send the Registrar all prescribed data, the annual general statement of accounts in the annual return form no. 1 for the year ending December 31, 1981. It is the case of the appellant that the ground relied upon by the authority for not submitting the return itself was not proper as the appellant-Union had vide letter dated July 14, 1983 viz., before passing of the final order for cancellation of registration, had submitted the return and the same was acknowledged by the office of the Commissioner of Labour, Bombay.

2. Section 10 of the Trade Unions Act, 1926 deals with the cancellation of

registration, which reads as under:

"10. Cancellation of Registration - A certificate of registration of Trade Union may be withdrawn or cancelled by the Registrar -

(a) on the application of the Trade Union to be verified in such manner as may be prescribed, or

(b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by Section 6:

Provided that not less than two months previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union..."

Rule 17 of Bombay Trade Unions Regulations deals with annual returns which reads as under:

"Annual returns - (1) The general statement to be furnished u/s 28 shall be submitted to the Registrar by April 30, in each year and shall be in Form "I".

(2) For the purpose of satisfying himself that the information contained in the general statement furnished under Sub-regulation (i) is correct, the Registrar may require any registered Trade Union to produce before him any documents or to furnish such information or may make or may authorise any person to make such investigation as he thinks necessary".

3. It is the case of the appellant that the impugned order by cancelling the registration as contemplated under Sub-clause (b) of Section 10 of the Act was passed on August 10, 1983 and the same was gazetted on August 9, 1984. According to the appellant, necessary returns as contemplated under the Act was furnished by the appellant union in favour of authority on July 14, 1983 meaning thereby that the order in question was passed by the authority on August 10, 1983, the authority has received the required annual return. When the appellant has filed this appeal and during the pendency of the appeal, an application for stay was moved and after hearing the learned counsel for the parties, the impugned order of registration was stayed and appellant's registration is continued. During the hearing, it is also submitted by the counsel for the appellant that as per the provisions, the appellant is furnishing the annual return in favour of the authority and registration of the appellant is continued.

4. Without entering into the merits of the matter, the fact remained that the authority has in exercise of the power conferred on him under Sub-section (b) of Section 10 of the Trade Unions Act, 1926, has cancelled the, registration of

appellant union on August 10, 1983 gazetted on August 9, 1984. By virtue of the pendency of the appeal, in view of stay granted by this Court the registration of the appellant is continued. Accordingly, this Court is inclined to allow the appeal filed by the appellant and the order passed by the authority viz., Additional Registrar of Trade Unions, Bombay Dist. dated August 10, 1983 gazetted on August 9, 1984 is set aside with respect to the appellant only who is at item no. 51 of the order. The appeal is accordingly allowed. The order of the authority is set aside to the extent indicated above with no order as to costs.

Certified copy expedited.