

(2022) 11 KL CK 0088

In the High Court Of Kerala

Case No : Writ Petition (C) No. 815, 2574 Of 2011

M.P.Sasidharan

APPELLANT

Vs

Director, LBS Centre Of Science Lbs Centre For Science &
Technology, Palayam, Thiruvananthapuram. Pin 695033
@RESPONDEN

RESPONDENT

Date of Decision : 08-11-2022

Acts Referred:

Citation : (2022) 11 KL CK 0088

Hon'ble Judges : P.V.Kunhikrishnan, J

Bench : Single Bench

**Advocate : Gopakumar R.Thaliyal, P.R.Prateesh, M.S.Vijayachandran Babu,
K.K.Raziya, M.Sasindran, K.G.Sarojini, Shameena Salahudheen**

Final Decision : Disposed Of

Judgement

P.V.Kunhikrishnan, J

1. These writ petitions are connected and therefore I am disposing of these writ petitions by a common judgment.

2. The prayer in W.P.(C.) No. 815/2011 is extracted hereunder :

"(i) to issue a writ of mandamus or any other appropriate writ, direction or order, directing the 1st respondent not to proceed with the referendum as scheduled in Exhibit P7 by the 1st respondent

(ii) To declare that the procedure initiated and followed by the 1st respondent for conducting referendum for recognising trade unions in the LBS Centre for Science and Technology is illegal and arbitrary.

(iii) To issue a writ of mandamus or any other appropriate writ, direction or order directing the 4th respondent to intervene in the matter of conducting referendum now initiated by the 1st respondent and to conduct the referendum strictly in accordance with law.

(iv) To issue such other reliefs as this Honourable Court may deem fit and proper in the facts and circumstances of the case.” [SIC]

3. The prayer in W.P.(C.) No. 2574/2011 is extracted hereunder :

“(i) Issue a writ of certiorari or such other writ direction or order quashing Exhibit P9 as arbitrary, illegal and unconstitutional.

(ii) Issue a writ of mandamus or such other writ, direction or order directing the 3rd respondent not to proceed with the referendum as scheduled in Exhibit P9

(iii) declare that the procedure initiated and followed by the 3rd respondent for conducting referendum to recognise the service organisations in IHRD is arbitrary, illegal and contrary to the statutory provisions.

(iv) Issue such other writ, direction or order as is deemed just and proper in the facts and circumstances of the case.” [SIC]

4. When W.P.(C.) No. 2574/2011 came up for consideration on 28.1.2011, this Court passed the following order :

“IA No. 1520 of 2011

Heard. This is an application filed by the petitioner to receive Exts.P10(a) to P10(e) into evidence in the writ petition. Not opposed. Allowed.

W.P.(C.) No. 2574 of 2011

Admit. Issue urgent notice returnable in 10 days to respondents 1 and 3 to 5. Sri.M.K.Chandramohan Das, learned standing counsel takes notice for the second respondent. Sri.V.K.Mohammed Yousef, learned counsel takes notice for the sixth respondent.

Heard the learned counsel on both sides. The main contention raised in this writ petition is that in view of the provisions contained in the Kerala Recognition of Trade Unions Act, 2010, the proposed referendum is illegal. The Kerala Recognition of Trade Unions Act applies to industrial establishments defined in the Industrial Disputes Act, 1947. The applicability of the aforesaid Act to the institute of Human Resources Development for Electronics is a matter which will have to be examined in detail. In such circumstances, I am of the opinion that the ends of justice will be met if the referendum in Ext.P9 is allowed to be held but the result is not declared and directions are also issued to permit only those employees whose names find place in the electoral roll to vote in the referendum

There will accordingly be an interim order to the effect that though the referendum referred to in Ext.P9 can be held. The result of the referendum shall not be declared until further orders of this Court. The third respondent Returning Officer shall keep the ballot boxes sealed and shall open the ballot boxes and count the votes polled only after obtaining the orders of this Court. The respondents shall also ensure that only those employees whose names appear in the voters list are permitted to participate and vote in the referendum Post along

with W.P.(C.) No. 815 of 2011

Handover a copy of this order to both sides on usual terms.”

5. Thereafter again the above writ petition came up for consideration on 18.3.2011. On that day, this Court passed the following order :

“Heard the learned counsel on both sides. The main question that arises for consideration in the writ petition is whether in view of the coming into force of the Kerala Recognition of Trade Unions Act, 2010 a referendum can be held otherwise than in the manner indicated therein for the purpose of recognising trade unions in industrial establishments. Incidentally, the question whether the Institute of Human Resources Development (IHRD for short) is an industrial establishment to which the Kerala Recognition of Trade Unions Act, 2010 applies also arises for consideration. A decision on the said question would involve a detailed examination of the various aspects arising for consideration. If as claimed by the petitioner the Kerala Recognition of Trade Unions Act, 2010 applies the present exercise will have to be shelved. I therefore find no grounds to vacate the interim order passed by me on 28.1.2011. I.A. No. 3682 of 2011 is accordingly dismissed.

Post the writ petition on 28.3.2011 along with W.P.(C.) No. 815 of 2011 in the admissions list. The State of Kerala shall file its counter affidavit, if any, in the meanwhile.”

6. In W.P.(C.) N. 815/2011, there is an interim order on 17.1.2011, which is also extracted hereunder :

“Heard the learned counsel on both sides.

2. In this writ petition the petitioner, who is the General Secretary of a trade union registered under the Indian Trade Unions Act, 1926, seeks a direction to the first respondent not to proceed with the referendum proposed in Ext.P7. In the course of arguments, the learned counsel appearing for the petitioner, relying on the provisions contained in the Kerala Recognition of Trade Unions act, 2010 and the letter dated 6.1.2011 sent by the Labour Commissioner to the first respondent, submitted that the said Act applies to the LBS Centre for Science and Technology and therefore, the referendum proposed in ext.P7 is liable to be stayed. A copy of the letter dated 6.1.2011 sent by the Labour Commissioner to the first respondent was also made available to me for perusal.

The learned Government Pleader appearing for the 4th respondent submitted that after the said letter was sent, the Labour Commissioner himself felt a doubt as to the applicability of the Kerala Recognition of Trade Unions Act, 2010 to the LBS Centre for Science and Technology and therefore he has sought the opinion of the Government and the Government are examining the issue.

3. Under the Kerala Recognition of Trade Unions Act, 2010 a referendum is to be conducted by the Registrar appointed for the purpose under the said Act. The

Kerala Recognition of Trade Unions act, 2010 applies to industrial establishments defined in the Industrial Disputes Act, 1947. The Government are yet to appoint the Registrar under the Act. The applicability of the aforesaid Act to the LBS Centre for Science and Technology will also have to be examined in detail. In such circumstances, I am of the opinion that the ends of justice will be met if the referendum referred to in Ext.P7 is allowed to be held but the result is not declared.

4. There will accordingly be an interim order to the effect that though the referendum referred to in Ext.P7 can be held the result of the referendum shall not be declared until further orders. The second respondent Returning Officer shall keep the ballot boxes sealed and shall open the ballot boxes and count the votes polled only after obtaining the orders of this Court.

Post after two weeks. In the meanwhile the respondents shall file their counter affidavits.

Hand over.”

7. Today, when the matter came up for consideration, the learned counsel appearing for the 1st and 3rd respondents submitted that the LBS Centre Employees Union is not in existence now. If that is the case, the dispute itself is resolved.

Recording the same, these writ petitions are closed.