
(2009) 08 AHC CK 0136

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 44381 of 2009

Nain Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 28-08-2009

Acts Referred:

Citation : (2009) 08 AHC CK 0136

Hon'ble Judges : Vikram Nath, J

Judgement

Vikram Nath, J.—Heard learned counsel for the petitioner, learned Standing Counsel for respondent Nos. 1 to 3, Sri N.N. Mishra, Advocate, representing respondent No. 4 and Sri Rajesh Kumar Srivastava, representing respondent No. 5.

2. This petition has been filed for a writ of certiorari quashing the election proceedings initiated at the instance of respondent No. 5, on the ground that he is neither the member of the Trade Union nor has he been authorised to hold the elections of the Union. According to the learned counsel for the petitioner the respondent No. 5 in a self styled manner has issued a proclamation declaring the election schedule.

3. Counter and rejoinder affidavits have been exchanged.

4. From the record it appears that the Nagar Nigam Employees Union, Ghaziabad was in existence for quite some time but it was not registered with the Registrar of the Trade Unions. In the previous 23 elections, the petitioner had been elected as President and such elections were being conducted by respondent No. 5. In the last election of the unregistered body held in 2007, also the petitioner was elected as President. However during the tenure the petitioner got the union registered with the Registrar Trade Unions in the year 2008. The registration certificate has been filed as Annexure 2 to this petition. According to the petitioner fresh elections were held in 2008 and the office bearers elected were duly registered by the Registrar Trade Unions. As per the new byelaws the period

of the elected office bearers was three years, in comparison to two years as per the byelaws of the unregistered body. Therefore, according to the petitioner the next fresh elections would be due in 2011.

5. On the other hand the submissions advanced on behalf of the respondents is that the terms of the elected office bearers is only two years as per the old byelaws and term has already come to an end but as the petitioner was not getting the fresh elections held, all the members of the union represented to the Municipal Commissioner for getting fresh elections held. Such papers have been filed alongwith the counter affidavit. From a perusal of the same it appears that although reports were called for from different authorities, but there is no direction given by the Municipal Commissioner to hold fresh elections and also authorising Raghvendra Sharma, respondent No. 5 to be the Election Officer.

6. It may also be noted that in the short counter affidavit filed on behalf of the Nagar Nigam the stand taken is that it has no knowledge with regard to the Union being registered in the 2008 and any elections held in the year 2008. Nagar Nigam only recognised the elections held in the year 2007, and the period of which has come to an end in 2009.

7. Without going into this question, which are pure questions of fact, which may be better dealt with by the authorities, on the representation/objection being filed by the respondent before the Registrar Trade Unions and also before the Municipal Commissioner, with regard to the validity of the registration and the elections held in the year 2008. Upon such representations being filed, both the authorities shall pass appropriate orders in accordance with law after affording due opportunity of hearing to the parties concerned within a period of three months from the date of filing of such representations/objections alongwith certified copy of this order. In view of the fact that the petitioner union at present stands registered with the Registrar Trade Unions and the list of Office Bearers elected in 2008 have been registered with the Registrar Trade Unions, the fresh elections notified by respondent No. 5 are liable to be quashed as apparently it is without authority of law. However it will be open to the respondents to hold fresh elections if ultimately they succeed and petitioners failed.

8. Petition stands allowed.