

(1990) 10 OHC CK 0017
In the Orissa High Court
Case No : O.J.C. No. 3762 of 1989

Prafulla Mohan Das and Others

APPELLANT

Vs

Steel Authority of India Ltd. and Others

RESPONDENT

Date of Decision : 17-10-1990

Acts Referred:

Industrial Disputes (Central) Rules, 1957 — Rule 41
Industrial Disputes Act, 1947 — Section 3

Citation : (1992) 1 LLJ 621

Hon'ble Judges : B.L. Hansaria, C.J.; S.K. Mohanty, J

Bench : Division Bench

Final Decision : Allowed

Judgement

1. A Works Committee came to be constituted pursuant to the result of the election held for the purpose on July 8, 1989. In choosing the representative of the workmen, however, there was no consultation with their trade union, and it is on this ground that the election is sought to be assailed in this petition.

2. A Works Committee is visualised as one of the authorities under the Industrial Disputes Act, 1947 (for short "the Act") by Section 3 of the Act. This section states that the representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926. Admittedly there is a trade union concerning the establishment of the Steel Authority of India, Rourkela Steel Plant. Admittedly also the trade union was not consulted.

3. The contention of Mr. Nanda on behalf of the Steel Authority of India is that as the Orissa Industrial Disputes Rules, 1959 have not prescribed any manner of consultation, the consultation as visualised by Section 3 of the Act is not to be complied with. In this connection, Mr. Misra has drawn our attention to the Industrial Disputes (Central) Rules, 1957. Rule 41 deals with the consultation with trade unions. Though there is no parallel provision in the Orissa Industrial

Disputes Rules, 1959, we are of the view that because of the absence of this provision in the Orissa Rules, the consultation which has been visualised by Section 3 of the Act cannot be negatived. As in the present case, admittedly there was no consultation in choosing the representatives of the workmen, we are not in a position to uphold the election. The same is, therefore, set aside.

4. The writ petition is accordingly allowed.