
(1969) 11 MAD CK 0037
In the Madras High Court

R. Murugesan

APPELLANT

Vs

Union Terrirtory of Pondicherry and Others

RESPONDENT

Date of Decision : 13-11-1969

Acts Referred:

Constitution of India, 1950 — Article 226

Trade Unions Act, 1926 — Section 28, 31, 33

Citation : (1976) 2 LLJ 435

Hon'ble Judges : Ismail, J

Bench : Single Bench

Judgement

Ismail, J.—This petition under Article 226 of the Constitution of India seeks to quash the order of the Registrar of Trade Unions, Government of Pondicherry dated November 14, 1967, addressed to the Secretary, Rodier Mills National Workers Union. The said order states.

With reference to your letter dated 1st August, 1967 on the subject mentioned above, the list of office-bearers newly elected by your union in the General Body Meeting held on 30th July, 1967 is approved and registered in this office.

2. The petitioner herein was the president of the union and on some difference occurring between the petitioner and the other members, according to the allegation of the petitioner, the fourth respondent herein purported to convene a meeting of the General Body of the union on July 30, 1967, at which the petitioner was suspended from membership for a period of five years. The petitioner contends that general meeting was not properly convened, because even prior to that meeting, the fourth respondent had been suspended by the petitioner, and, therefore, the office-bearers elected at that meeting were not legally and validly elected and the previous office-bearers continued to be in office. It is on these allegations the petitioner seeks to have the order dated November 14, 1967, of the Registrar of Trade Unions, Government of Pondicherry, quashed.

3. In the affidavit tiled in support of the writ petition, the petitioner contends that

the second respondent, namely, the Registrar of Trade Unions, Pondicherry, is merely a registering authority created by the statute and no power has been conferred on him to pass an order of approval, which has the effect of throwing out the existing executive committee. The further contention of the petitioner is that the order of the Registrar is arbitrary and it has been passed without conducting a full and proper enquiry.

4. I am of the view that the writ petition is really misconceived and the word "approved" occurring in the impugned order has contributed to that misconception--Section 28(1) of the Trade Unions Act, 1926 (Central Act 16 of 1926) provides that there shall be sent annually to the Registrar on or before such date as may be prescribed, a general statement audited in the prescribed manner, of all receipts and expenditure of every registered trade union. Sub-section 2 of the same section states that together with the general statement there shall be sent to the Registrar a statement showing all changes of officers made by the trade unions during the year to which the general statement refers, together also with a copy of the rules of the trade union corrected up to the date of the despatch thereof to the Registrar. When such a statement is sent to the Registrar and if there is a dispute as to who are the validly and legally elected office-bearers of the trade union, the Registrar has necessarily to come to a conclusion of his own as to who shall be recorded for the purpose of his registers. For this purpose a limited enquiry is inevitable. Otherwise, the Registrar will be in an unenviable position of having to record two sets of office-bearers of the same trade union without having any power to decide as to which of them, he will recognise for the purpose of the administration of the Act. It is in view of this peculiar situation, the Andhra Pradesh High Court in *Sanjeeva Reddi v. Registrar of Trade Unions and Ors.* 1969 I.L.J. 11, pointed out:

It is the duty of the Registrar to keep the record up-to-date and if necessary to enquire and come to a conclusion as to whether a particular set of office-bearers does really represented the union and has been validly elected. It cannot be said that any decision of the Registrar is binding either on any set of office-bearers or on the management as such--It may be that because of a particular proceeding by the Registrar, which has the effect of recognising a particular set of office-bearers, the other set may have a grievance inasmuch as such set of office-bearers will not be recognised by the management and may be in a position to discharge the duties under the Act, but that does not give them any right to file a writ petition for an order to quash the proceedings of the Registrar. No specific provision has been made in the Act empowering the Registrar to make an enquiry when a statement of election of office-bearers is sent to him. Similarly, no duty has been cast upon the Registrar that he should accept the statement of the change of office-bearers as sent to him. A duty for maintaining the record having been cast upon the Registrar, it follows that he has got the necessary power to ascertain for his own purpose which set of office-bearers has been validly elected and represents the union. These powers are ancillary to the main powers given to the Registrar under the Act

Earlier to this, a Bench of the Patna High Court in *Mukund Ram Tanti v. Registrar of Trade Unions* 1963 I .L.J. 60, had taken a similar view. The headnote to that decision states:

The Registrar was competent to hold such enquiry for the purpose of maintenance of records in his office as to who were the actual office-bearers, and for coming to such a decision on such point, he could very well consider the legality of any new election claim to have been made, though, of course he could not declare that election to be unconstitutional. There could be no doubt that before the Registrar of Trade Unions, could record the name of the newly elected office-bearers in the register, he might have to make a proper enquiry whether the names of office-bearers so supplied could be proved and legal substitution for the old names continuing in the register.... The relevant provisions of the Act impliedly given jurisdiction to the Registrar to make appropriate changes in the register regarding the names of the office-bearers of the trade union. It also appears from the provisions of Sections 31 and 33 of the Act, though not specifically but impliedly, that it is a part of the duty of the Registrar of Trade Unions to record the changes of the office-bearers in the appropriate register in order to discharge his duties under the Act. In substituting the names of the new office-bearers, the Registrar has, therefore, to find if these new office-bearers were legally elected, because, if their election is not legal, there may be a grave doubt whether they could be prosecuted for failure to submit the returns.

Both these decisions and the general position referred to by me already clearly show that the Registrar, in the event of competing claims between two sets of office-bearers, has necessarily to decide for his own purpose as to which of them we would recognise in relation to the administration of the Trade Unions Act. But it must be clearly understood and pointed out that when the Registrar takes any such decision, he is not determining a dispute between the parties so as to bind them. The Act has not constituted the Registrar as the Election Court or Election Tribunal for the purpose of determining such a dispute and any decision rendered by the Registrar is merely administrative in character, as ancillary to the discharge of his duties and powers under the Trade Unions Act. Therefore, notwithstanding the decision of the Registrar, the parties are at liberty to fight out their dispute and establish their respective cases in appropriately instituted legal proceedings before the proper forum. In view of the fact that the decision of the Registrar does not purport to decide the rights of the parties, it does not have the character of the judicial or quasi-judicial order so as to make it amenable to the certiorari jurisdiction of the High Court. For the same reason, there is no obligation cast upon the Registrar to conduct a full-fledged enquiry, after issuing notice to all the parties or taking evidence. In view of these circumstances, the fact that the Registrar, has, in the impugned order, accorded his approval to the set of office-bearers claimed to have been elected at the general body meeting held on July 30, 1967, does not give a cause of action to the petitioner herein to pray for the issue of a writ of certiorari to quash the same. On this ground the writ petition fails and is dismissed.

5. However, I shall make it clear beyond any possibility of doubt that I am dismissing this writ petition on the sole ground that the impugned order of the Registrar has not decided and could not have decided the legality of the election of the office-bearers said to have been taken place on July 30, 1967. The determination of such a question so as to bind the parties was certainly outside the jurisdiction of the Registrar and that matter can be fought out and determined only in regularly constituted Courts and Tribunals and not by the Registrar of Trade Unions.

6. There will be no order as to costs.