
(2001) 07 JH CK 0086

In the Jharkhand High Court

Case No : CWJC No"s. 8351 and 10020 of 2000

Ram Chandra Singh and Another with HCL Srivastava and
Another

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 19-07-2001

Acts Referred:

Trade Unions Act, 1926 — Section 28, 8

Citation : (2002) 3 LLJ 1069 : (2002) 94 FLR 1153

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : Alok Kr. Singh, A.B. Kumar, K.N. Gupta and A.K. Sahani, for the Appellant; Anil Kr. Sinha and Vinod Kanth, Sat Prakash, P.K. Sinha, Rajiv Ranjan and Rajnish Prasad, for the Respondent

Final Decision : Allowed

Judgement

S.J. Mukhopadhaya, J.—Both these cases have been transferred from Patna High Court in terms of the provisions of Bihar Reorganisation Act, 2000. Common question having been raised and common order contained in letter dated 10th June, 2000, having been challenged, they have been heard together and are being disposed of by this common judgment and order.

2. As the matter can be disposed of on a short point, it is not necessary to discuss all the facts, claim and counter claim of the parties, except the relevant one, as mentioned hereunder. In the Bokaro Steel Plant, Bokaro, there is a registered Trade Union, known as "Bokaro Steel Workers Union" (Union for short). It has its own constitution and by-laws. The election of Office Bearers is held as per the by-laws, with a life of elected Office Bearers for about two years and three months. There appears to be some internal rivalry cropped up since 1989-90, while one or other group claimed to be the validly elected Office Bearers of the Union.

3. The election of Office Bearers of Union held on 5th August. 1987, electing late

Bindeshwari Dubey as its President, late P.N. Tripathy as Working President and H.C.L. Srivastava (Petitioner No. 1 of CWJC No. 10020 of 2000) as its Joint General Secretary. The Union rivalry/dispute started in 1989-90 before the death of Bindeshwari Dubey. According to petitioner Ram Chandra Singh and another of CWJC No. 8351 of 2000, H.C.L. Srivastava formed a separate group and proclaimed to have got elected on 24th October, 1989, as per claim of his group to be victorious. Another rival group under the leadership of one P.N. Tripathy also proclaimed to have got elected in pursuance of election, held on 24th August, 1990, whose group claimed to be victorious.

4. On the other hand, according to petitioner H.C.L. Srivastava and another of CWJC No. 10020 of 2000, he was elected as Joint General Secretary on 24th October, 1989. A tripartite settlement was also signed on 23rd August, 1990 between the management in one side and late P.N. Tripathy and petitioner H.C.L. Srivastava on the other side. According to H.C.L. Srivastava, late P.N. Tripathy formed a separate group and prepared fake list of Office Bearers on 25th August, 1990, purported to have been prepared on the basis of so called election, held on 24th August, 1990.

Petitioner H.C.L. Srivastava and others preferred a writ petition bearing CWJC No. 2004 of 1990(R), challenging the election purported to be held on 24th August, 1990 and a letter dated 15th September, 1990, issued by the Registrar, Trade Union, Bihar, whereby the management of Bokaro Steel Plant, was intimated of such election and Office Bearers. The High Court while did not interfere with the election, asked the petitioner to challenge and raise dispute in a civil Court of competent jurisdiction.

6. Thereafter. Title Suit No. 120 of 1990 was preferred by H.C.L. Srivastava group in the Court of learned Munsif, Chas impleading P.N. Tripathy group, management of Steel Authority of India Ltd., Bokaro steel Plant, Registrar. Trade Union, Bihar and Ors. as defendants.

7. It appears that P.N. Tripathy group amended the constitution and held election on 27th May, 1992, during pendency of the suit. Subsequently, in 1993 Bindeshwari Dubey expired and in 1994 P.N. Tripathy himself expired. In their places one C.S. Dubey (respondent in both the cases) claimed to have been taken over as new President in 1993 and as General Secretary in 1994. The Registrar, Trade Union, Bihar, requested General Secretary, I.N.T.U.C., to conduct election of Office Bearers of Union in presence of Deputy Labour Commissioner, Bokaro Steel City, by his letter dated 25th July, 1994. Sri C.S. Choubey (respondent) in the capacity of General Secretary, Bokaro Steel Workers Union, challenged the letter of Registrar, Trade Union, dated 25th July, 1994 before the Patna High Court in CWJC No. 6834 of 1996, reported in 1995 (1) PLJR 400 (Bokaro Steel Workers Union v. State of Bihar,). A Division Bench of Patna High Court, taking into consideration the Patna High Court's decision in the case of Mukund Ram Tanti v. S.I. Raza, Registrar Trade Union, reported in AIR 1962 Pat 383 and Section 28 of Trade Union Act, 1926, held that the Registrar. Trade

Union, can only hold an enquiry for the purpose of maintaining and updating the register and his decision in this regard shall neither confer any right on any person or group of persons nor divest any person or group of persons of any lawful rights. The Registrar, Trade Union, cannot recognise any person or group of persons as duly elected Officer Bearer(s) nor can direct to hold election of Office Bearers under his or his nominee's supervision. Such disputes can only be decided in a suit before a civil Court.

8. So far as Title Suit No. 120 of 1990 is concerned, it was decided vide judgment and decree dated 1st March, 1995 by the learned Additional Munsif, Chas, and the alleged election held on 24th August, 1990 as well as the letter of Registrar, Trade Union Bihar, dated 15th September, 1990 were declared illegal, invalid and inoperative.

One Sri D.K. Choubey and others moved in Title Appeal No. 5 of 1995 against the judgment and decree aforesaid, wherein, prayer for stay of operation of judgment and decree was rejected.

9. The Additional Registrar. Trade Union, thereafter, issued a communication dated 11th January, 1996, addressed to the Managing Director, Steel Authority of India Ltd., Bokaro, and informed that in view of decision in Title Suit No. 120 of 1990 and the High Court's order in CWJC No. 6834 of 1994, the election of Union, held on 5th August. 1987, was found valid. The aforesaid letter was challenged by respondent C. S. Dubey in the capacity of General Secretary, Bokaro Steel Workers Union, before the Patna High Court in CWJC No. 997 of 1996, reported in 2000 (I) LLJ (Pat) 133 (Bokaro Steel Workers Union v. State of Bihar). The Court again held that the Registrar, Trade Union, has no authority to adjudicate as to which group of Office Bearers was validly elected nor he can direct Office Bearers to hold election or nominates his nominee to supervise election. Such dispute can only be resorted to by means of civil suit.

10. It appears that the Registrar, Trade Union, thereafter issued the impugned letter No. 1041/2000 dated 10th June, 2000 and communicated the Management, Bokaro Steel Plant, the list of Office Bearers of Bokaro Steel Workers Union. Subsequently a corrigendum letter was issued vide Memo No. 2325 dated 12th June, 2000, which has also been challenged by the petitioners.

11. In the opening paragraph of letter dated 10th June, 2000, the Registrar, Trade Union, intimated the Management, the list of elected Office Bearers of Union, as per election held on 1st June, 2000 and further mentioned that those elected members have been recognised by him. In the closing line, he requested the Management to recognise those elected Office Bearers.

By corrigendum letter dated 12th June, 2000 the closing sentence of requesting the Management to give recognition, was deleted and in its place "the list of elected Office Bearers for information and necessary action" was substituted.

12. The stand of petitioner H.C.L. Srivastava group and petitioner Ram Chandra

Singh and others before this Court is same that the impugned letter dated 10th June, 2000 read with corrigendum letter dated 12th June, 2000 is without jurisdiction. The Registrar, Trade Union, having no power to determine the dispute relating to elected members of a Trade Union.

13. Mr. Kanth, senior counsels for respondent C.S. Dubey group, while accepted that the Registrar, Trade Union, has no authority to adjudicate as to which group of Office Bearers was validly elected, submitted that the Registrar, Trade Union, by impugned letter dated 10th June, 2000 has merely enquired about the legality of new election for the purpose of maintaining a proper register, which has been intimated to the Management. It was pointed out that there being certain mistake in the earlier letter dated 10th June, 2000, such mistake having been realised, was corrected vide corrigendum letter dated 12th June, 2000.

14. Section 28 of the Trade Union Act, 1926, relates to returns. The said provision fell for consideration before a Division Bench of Patna High Court in the case of Mukund Ram Tanti (*supra*), wherein, the Court held :

"That on being informed about the election of the new office bearers, the Registrar is within his right to ascertain whether they were legally elected so as to be recorded in the register maintained for the purpose and to be ground for compliance of the provisions of the Act. In other words, the Registrar has full jurisdiction to enquire about the legality of the new election for the purpose of maintaining a proper register showing the names of the office bearers who may be at the relevant time required to comply with the provisions of the Act or to be dealt with in accordance therewith. In this particular case the order of the Registrar clearly shows that the election of the new office bearers was not accepted by him to be legal only for the purpose of maintenance of records in his office to facilitate the administration under the Act."

15. In the case of the present Union "Bokaro Steel Workers Union," the High Court in its judgment, reported in 1995 (1) PLJR 400 (Bokaro Steel Workers Union v. State of Bihar,), came to the following conclusion :

(i) In a dispute between two rival factions claiming to be the office bearers of a Union, it is opened to the Registrar to hold an enquiry for the purpose of maintaining and up-dating the register as required to be maintained u/s 8 of the Act.

(ii) His decision in this regard shall neither confer any right on any person or group of persons nor divest any person or group of persons of any lawful rights.

(iii) Consequently, the Registrar has no authority or power to issue any direction asking/advising the Labour Department of the Government or the employer to recognise and treat any particular person or group of persons as the duly elected office bearers of the union in dealing with that union.

(iv) The Registrar, Trade Unions has no authority or power to direct the holding of election of the office bearers of a union under his own supervision or under the

supervision of his nominee.

(v) In the absence of any provision in the Trade Unions Act, any dispute of his kind can only be resolved by means of a suit filed before a civil Court.

(vi) The adjudication in a suit at least in this State is normally a slow and time consuming process and does not constitute a wholly satisfactory remedy for resolving the dispute.

(vii) The legislature will, therefore, be well advised to address itself to this lacuna in the Trade Unions Act and to take steps to remedy it which has been long overdue."

16. In the case of present union "Bokaro Steel Workers Union", reported in 2000(I) LLJ 133 Pat , same finding was given that the Registrar has no authority to adjudicate as to which group of Office Bearers was validly elected. If the impugned letter dated 10th June, 2000 is read with corrigendum letter dated 12th June, 2000, though nothing illegal can be alleged so far as the closing part of the said letter is concerned, but the fact remains that in the opening portion, the Registrar, Trade Union, intimated the Management of its recognition as validly elected Office Bearers of the Union. Such letter can not be termed to be a mere enquiry by a Registrar, Trade Union, for the purpose of maintaining his register, showing the names of the Office Bearers, but amounts to adjudicating the issue as to which group of Office Bearers was validly elected, which has been held to be not permissible by Patna High Court in the cases, as referred above.

17. For the reasons aforesaid, the impugned letter dated 10th June, 2000, being without jurisdiction, as also the corrigendum letter dated 12th June, 2000 are set aside. Both the writ petitions are hereby allowed. However, in the circumstances, there shall be no order as to costs.

18. Writ petition allowed.