

**(2003) 07 MAD CK 0090**  
**In the Madras High Court**  
**Case No : C.M.A. No. 1228 of 1995**

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| Tamil Nadu Government Press Workers Sangam                               | APPELLANT  |
| Vs                                                                       |            |
| First Trade Union Additional Registrar (Deputy Commissioner of Labour I) | RESPONDENT |

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**Date of Decision :** 29-07-2003

**Acts Referred:**

Trade Unions Act, 1926 — Section 11

**Citation :** (2004) 1 LLJ 274 : (2003) 3 LW 736 : (2003) 3 MLJ 269

**Hon'ble Judges :** S.K. Krishnan, J;P. Sathasivam, J

**Bench :** Division Bench

**Advocate :** S. Subbiah, for the Appellant; N.A., for the Respondent

**Final Decision :** Allowed

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## Judgement

P. Sathasivam, J.—Tamil Nadu Government Press Workers Sangam, aggrieved by the order in No.A3/17887/87 dated 23.12.1987

passed by the respondent--First Trade Union Additional Registrar (Deputy Commissioner of Labour I), Madras, has filed the above appeal u/s 11

of the Trade Union Act, 1926.

2.Though notice was duly served on the respondent, the Additional Registrar has not chosen to contest the appeal by engaging a counsel.

3.Heard the counsel appearing for the appellant.

4. After taking us through the impugned order as well as Section 10 of the Trade Union Act, 1926, hereinafter referred to as the Act, learned

counsel for the appellant would contend that first of all the impugned order cancelling the registration of the appellant sangam cannot be sustained

for not following the mandatory provision namely, Section 10 of the Act and in any event, there is no ground for cancelling the registration. It is also

brought to our notice that even the order dated 23.12.1987 was not communicated to the appellant and only on request the same was sent to the appellant. In order to appreciate the claim of the appellant, it is useful to refer Section 10 of the Act, which reads as follows:

10. Cancellation of Registration:

A certificate of registration of a trade union may be withdrawn or cancelled by the Registrar-

(a) on the application of the trade union to be verified in such manner as may be prescribed;

(b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake or that the trade union has ceased to exist or has wilfully

and after notice from the Registrar contravened by provision of this Act or allowed any rule to continue in force which is inconsistent with any such

provision, or has rescind any rule providing for any matter provision for which is required by section 6;

Provided that not less than two months" previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the

certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of

the trade union.

5. It is clear from the above provision that the certificate of registration of a trade union duly obtained under the provisions can be withdrawn or

cancelled by the Registrar by following the procedure prescribed u/s 10 of the Act. If the Registrar is satisfied that the certificate of registration has

been obtained by fraud or mistake and the trade union in question ceased to exist or contravened any of the provisions of the Act, the Registrar is

empowered to cancel the certificate of registration of the trade union. However, in the light of the proviso to Section 10 of the Act, before taking

action u/s 10 of the Act, the aggrieved person must be served not less than two months previous notice in writing and also state the grounds of

cancellation/withdrawal of the certificate of registration to the trade union. According to the appellant both of the conditions provided under the

proviso to Section 10 of the Act has not been complied with. It is also relevant to note that even in the year 1991, through a letter dated

02.12.1991 the Assistant Commissioner, Teynampet, Chennai-6 has informed the

Director of Government Press, Chennai-79 to the effect that the registration of the appellant's trade union has been confirmed. In the light of the said communication ,after going through the same and in view of the fact that appellant was not given opportunity by way of notice prior to the order of cancellation, we are satisfied that the impugned order cannot be sustained. We hold that the impugned order contravened the provisions of Section 10 of the Act. Further, as rightly contended by the learned counsel for the appellant in the light of the communication dated 02.12.1991 referred to above, the decision taken and conveyed through the impugned proceedings cannot be sustained.

6. For the reasons stated above, we set aside the impugned order of the respondent dated 23.12.1987 and consequently, the appeal is allowed.

However, it is made clear that if the respondent intends to take action against the appellant, it has to follow the mandatory provisions of Section 10 of the Act.