
(2004) 04 JH CK 0006
In the Jharkhand High Court
Case No : Civil Review No. 35 of 2003

Tisco Mazdoor Union

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 16-04-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 2 JCR 598

Hon'ble Judges : R.K. Merathia, J

Bench : Single Bench

Advocate : Rajiv Ranjan, for the Appellant; Bimal Kumar K.M. Verma and B.K. Kanth for the respondent No. 4, G.K. Mishra, for the respondent No. 5 and L.C. Roy and K.K. Ambastha, for the Respondent

Final Decision : Allowed

Judgement

R.K. Merathia, J.—In this petition filed under Article 226 of the Constitution of India, petitioner prays for an opportunity of hearing in the writ petition filed by respondent No. 4 herein, on the ground that the writ petitioner did not implead the petitioner herein, who was a necessary party in the writ petition and by suppressing necessary and relevant facts, procured the order under review. Regarding the scope of such petition reliance has been placed on the judgment reported in Shivdeo Singh v. State of Punjab AIR 1963 SC 1909.

2. Suresh Narayan Singh (Respondent No. 4 herein) filed the writ petition in question being CWJC NO. 1065 of 2000 (R) for a direction to the Registrar, Trade Unions to hold election of the Union under his supervision on the ground that there are rival factions claiming to be only elected office bearers of the Union.

3. On 20.8.2001, this Court found that the necessary/interested persons were not made parties in the writ petition and accordingly this Court permitted the petitioner to implead the interested persons as parties. The writ petitioner filed an amendment petition adding only one Shiv Dayal Sharma, as respondent No. 3.

On 4.2.2003, the writ petition was disposed off directing that the elections should be held as early as possible under the supervision of Commissioner-cum-Registrar, Trade Unions, Jharkhand, as the Labour Commissioner, Patna had already advised for holding elections on 11.3.2000, vide Annexure-1 to the writ petition.

4. Learned counsel for the petitioner referring to the materials brought on the record, submitted that by suppressing the necessary and relevant facts; and the intervening events, the writ petitioner procured the order under review. He submitted that an election of Tisco Mazdoor Union was held on 22.9.2002 and this was duly communicated to all concerned. He further submitted that in any event, intra union rivalry, if any, can only be resolved by a civil suit. He relied on a division Bench judgment reported in Bokaro Steel Workers' Union v. State of Bihar. 1995 (1) JPLJR 400. He further submitted that the case relied on by the writ petitioner. North Eastern Railway Employees Union and Others Vs. IIIrd Additional District Judge, Farukhabad and Others, has also been explained in the said judgment. Reliance was also placed on the judgment reported in 2001 (3) Jhr CRI 183.

5. Learned counsel for the writ petitioner (Suresh Narayan Singh) submitted that the writ petitioner impleaded Shiv Dayal Sharma only in the writ petition as per the order of this Court and therefore writ petitioner was not at fault. He further submitted that the petitioner herein was not necessary party as all the three factions of the Union attended the meeting held on 11.9.2001 wherein they agreed for holding elections (Annexure-8).

6. After hearing the parties at length. I find merit in this petition. The submission of learned counsel for the writ petitioner, that this Court directed the writ petitioner to implead only Shiv Dayal Sharma is not correct. As already noticed above, this Court permitted the writ petitioner to implead the interested persons as party respondents. But the writ petitioner chose to implead only Shiv Dayal Sharma, said to be representing one of the factions of the Union, and not the petitioner, said to be representing other faction of the Union. Even as per the case of the writ petitioner, there were three factions in the Union, one represented by the writ petitioner, second represented by the said Shiv Dayal Sharma and the third represented by the petitioner herein. It is clear from the materials brought on the record that the petitioner representing the third faction of the Union was a necessary/interested party in the writ petition and it deserves an opportunity of hearing, in the interest of justice.

7. On 29.8.2003, this Court ordered to maintain status quo in this petition. The order passed in the writ petition has not been given effect to.

8. As I am inclined to allow this petition. I think it proper that the management should also be impleaded and heard in the writ petition.

9. I am not recording the submissions made by the parties on the merits of the writ petition, in detail in this order. Any observations made in this order will not

prejudice the parties at the time of hearing of the writ petition.

10. In the result, this petition is allowed. The writ petition CWJC No. 1065 of 2000 (R) is restored to it's original file. The respondent No. 4-writ petitioner should implead all necessary/interested parties in the writ petition including the petitioner and the management. Thereafter, the writ petition will be placed for admission.