

Unit Prasad Singh Vs. the State of Jharkhand and ors.

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Court : Jharkhand

Decided On : Sep-25-2006

Reported in : [2007(1)JCR194(Jhr)]; (2007)IILLJ640Jhar

Judge : M. Karpagavinayagam, C.J. and; M.Y. Eqbal, J.

Appellant : Unit Prasad Singh

Respondent : The State of Jharkhand and ors.

Advocate for Def. : K.K. Jhunjhunwala, G.P.III

Advocate for Pet/Ap. : Babban Lal and; Ashok Kumar Sinha, Advs.

Disposition : Appeal dismissed

Judgement :

1. The learned Single Judge has passed an order dated 28.6.2000, wherein the learned Single Judge has held that the Registrar, Trade Unions, has no jurisdiction to decide the legality and propriety of any election and has no jurisdiction to direct for holding fresh election. The aforesaid order is under challenge in this appeal.

2. The short facts leading to the filing of this appeal are as follows:

Unit Prasad Singh, the appellant, was elected as General Secretary in the election of the office bearers of the Union held in October/2000. He was declared elected as General Secretary on 27.4.2001. The next election was held on 9.11.2003 and

new sets of office bearers were elected. The appellant, having come to know that there were illegal practices committed during the course of election, protested by sending a letter dated 15.11.2003, intimating the Registrar, Trade Unions, that the election has to be declared as invalid as there were illegal activities. By the order dated 29.11.2003, the Assistant Labour Commissioner was directed to make enquiry regarding the alleged irregularities and submit his report. In the meantime, the appellant filed writ petition before the learned Single Judge for a direction to the Registrar, Trade Unions, to hold a fresh election. However, this Court passed an order dated 16.2.2005 that he must approach the Registrar or competent authority and 'to 'submit his grievances. Consequently, the petitioner represented before the Registrar, Trade Unions, who, in turn, by the order dated 12.11.2005, declared that the election held on 9.11.2003 was not a valid election and ordered for a fresh election to be conducted and in the meantime, the Committee of the Union elected before 9.11.2003 would continue. Challenging the said order, Respondent No. 4, Koyla Ispat Mazdoor Panchyat, filed a writ petition before the Single Judge. During the pendency, the appellant intervened in the said writ petition and requested for confirmation of the order passed by the Registrar. This Court, after hearing the parties, by the impugned order dated 28.6.2006, set aside the order of the Registrar dated 12.11.2005, holding that he has no jurisdiction to decide the legality and propriety of any election. It further held that he has also no jurisdiction to direct holding of a fresh election. Aggrieved by the same, the appellant has filed this appeal.

3. The gist of the arguments submitted by the counsel for the appellant is as follows:

The appellant was elected as General Secretary of the Union in October, 2000. The annual returns of the year 2000 including the list of office bearers were submitted to the Registrar, Trade Unions, by the Union through the appellant, the General Secretary of the Union. The election, which was held on 9.11.2003, was without any notification as required under the rules of the Union. As a matter of fact, no election was held on 9.11.2003. Under these circumstances, the appellant sent a letter to the Registrar, Trade Unions, requesting him to declare the said election illegal. Considering the protest petition, enquiry was directed to be

conducted by the Labour Commissioner. On the basis of the enquiry report, the Registrar, Trade Unions, declared the election invalid and ordered for fresh election. This order cannot be said to be illegal, in view of the decision rendered by the Patna High Court in the case of Mukund Ram Tanti v. Registrar of Trade Unions and Ors. reported in 1963 (1) LLJ 60.

4. In reply to the above arguments, learned Counsel for the respondents would contend that the order passed by the learned Single Judge is perfectly justified.

5. We have heard learned Counsel for the parties and have given our anxious consideration to their respective submissions.

6. At the outset, it shall be stated that the decision cited by the counsel for the petitioner, Mukund Ram Tanti reported in 1963(1) LLJ 60, would not support the case of the appellant and as such, it is of no use as the ratio decided by the said Division Bench at Patna could not indicate that the Registrar, Trade Unions, has got a jurisdiction to decide about the legality of any election and to direct holding of a fresh election. As a matter of fact, in that decision, the Division Bench referred to the submission of the counsel for the respondents, who conceded that the principles of law that the Registrar, Trade Unions, had no power to declare an election unconstitutional is correct. In the said decision, it was merely decided that the Registrar, Trade Unions, after conducting enquiry, could record the names of the newly elected office bearers in the register and for this purpose, he may have to make a proper enquiry into the question whether the names so supplied could be proper and legal substitutions for the old names contained in the register.

7. As laid down by the High Court of Patna in the decision rendered in the case of Singh R.N. and Anr. v . State of Bihar and Ors. reported in 1998 (II) LLJ 330, where there was a dispute as to who were elected office bearers of a particular Trade Union, it is not within the jurisdiction of Registrar of Trade Unions to determine which of the rival groups of office bearers is real one. This is because under the Trade Unions Act, 1926, there is no provision for adjudication of such a dispute by the designated officer or authority. Obviously, therefore, where such a dispute arises, it has to be resolved by filing a civil suit in a court of competent jurisdiction.

8. A similar issue had arisen before the Calcutta High Court. The Calcutta High Court observed in the case of O.N.G.C. Workmen's Association v. The State of West Bengal reported in 1988 (57) F.L.R. (Cal. H.C) 522, which is as follows:

The question arises as to what is the power and jurisdiction of the Registrar of Trade Unions to adjudicate the grievances of the rival parties. True, the Registrar has power to ascertain who are the elected office bearers to register their names within the scope and ambit of Section 8 and 28 of the Trade Unions Act. The scope of inquiry to be held within the scope of such provision of law is very much limited. Any order passed by him must be administrative in nature. He is not deemed to be a quasi-judicial authority to decide any disputed question of fact or law.

9. In view of the observations made by the Calcutta High Court and the Patna High Court, we do not find any error in the impugned order passed by the learned Single Judge dated 28.6.2006, holding that the Registrar, Trade Unions, has no jurisdiction to give any declaration regarding legality or propriety of any election. As referred to in the impugned order passed by the learned Single Judge, two persons have already moved before the Civil Court in Dhanbad against the election in question. Admittedly, the said civil proceedings are pending challenging the said election. In view of the above circumstances, we do not find any merit in this appeal, which is accordingly dismissed. No costs.