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Court : Supreme Court of India

Decided On : Sep-23-1992

Reported in : 1992(2)SCALE648; 1993Supp(1)SCC229; 1992(2)LC686(SC)

Judge : S.R. Pandian and; R.M. Sahai, JJ.

Appeal No. : Civil Appeal No. 3926 of 1992

Appellant : international Airports Authority of India Workers' Union

Respondent : international Airports Authority of India and Ors.

Advocate for Pet/Ap. : R.S. Sodhi,; Manik Karanjawala,; Kailash Vasdev and;

Judgement :

ORDER

R.M. Sahai, J.

1. Dispute between two rival unions, one International Airports Authority of India Workers Union (in brief 'WU') and the other International Airports Authority Employees Union (in brief 'EU') has reached this Court routing through High Court for recognition as the majority union. Long arguments were advanced both on behalf of the two rival unions, the management and the government. But it

appears unnecessary to enter into the larger issues raised by the parties as we are of the opinion, that in the circumstances to be stated hereinafter, it is just and proper that fresh elections should be held to determine the majority character of the union which could be recognised by the International Airports Authority of India.

2. Earlier elections had taken place in 1978, 1982 and 1987. In the elections in 1987 it was the WU which was elected and given recognition by the Authority concerned. The period during which recognition was to operate came to an end in March 1989. But the management did not succeed in holding the elections as dispute arose between WU and EU if the subsequent recognition could be held by secret ballot. As the management appeared to agree to proceed with recognition by secret ballot, the WU filed a suit in the Court of Civil Judge, Delhi for permanent injunction. Whereas the EU filed a writ petition in the Delhi High Court for direction to the management to hold fresh elections as the period of recognition was over. One of the reliefs sought in the writ petition was that the elections should be got conducted by secret ballot under the supervision of Central Government. The application for injunction in the suit filed by the WU was dismissed in February, 1991. Consequently the management announced that the elections shall be held on 25th March, 1991. The WU immediately filed a writ petition in the Madras High Court which was dismissed on 22nd March, 1991. Having lost first in the suit filed at Delhi and then in the writ petition filed at Madras the WU approached the management and arrived at an agreement on 22nd March, 1991 before the Conciliation Officer/Dy, Chief Labour Commissioner (Central) that they were willing to participate in the election to be held in accordance with memorandum issued by the Government of India, Ministry of Labour on 18th December, 1980 by secret ballot to be conducted by the CIRM. It was further agreed that the election shall be held within one month from the date of agreement, that is, on or before 23rd April, 1991. Since it was the WU which was delaying and obstructing the holding of election but it agreed for it the management approached the EU but they did not agree for postponement of the election. The management had sent intimation to the EU to come and participate in the talks which were to be held between the management and the EU on 22nd March, 1991. Whether such intimation was received by EU or not is not material but this much is clear that EU was not willing

for postponement of elections any more. Consequently the management was left with no option and on 24th March it informed the WU that since the other party was not agreeable it was not possible to postpone the election which shall take place as announced on 25th March, 1991. It is undisputed that the WU which has its branches at Delhi, Calcutta, Bombay and Madras and each wing of which participates in the elections boycotted the elections. Reasons for doing so were stated to be many. But at least this much is clear that there was not enough time for various wings of the union to be intimated that the decision taken on 22nd March, 1991 between the management and the union stood annulled and the elections shall go on as scheduled.

3. Reasons for non-participation of WU in the circumstances was seeking its remedy in court of law. Whether it was justified or not and whatever be the effect of non-participation of the EU in the elections held before the authorities the equities between parties can be adjusted by issuing following directions:-

(1) The management shall hold fresh elections by secret ballot for purposes of recognition in accordance with rules and complete the same within a period of six months from the date a copy of the order is produced before it.

(2) The election shall be held under the supervision of the management after due intimation to both the unions. So long the elections are not held the EU which had been recognised on 31st March, 1991 shall continue to remain the recognised union.

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