

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.38731 OF 2022

Between:

RTC Telangana Mazdoor Union & others

... **Petitioners**

And

The State of Telangana & others

... **Respondents**

JUDGMENT PRONOUNCED ON: 03.06.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P.No.38731 OF 2022****% 03.06.2024****Between:**

RTC Telangana Mazdoor Union & others

... Petitioners**And**

\$ The State of Telangana & others

... Respondents

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> Head Note:

! Counsel for the Petitioners : Mr. V.Murali Manohar**^ Counsel for Respondents** :G.P. for Labour for R1 to R5,
R17 & R19
Mr.V.Narasimha Gound for
R6,R7,R13 and R15
Mr. N.Praveen Kumar,
for R18

? Cases Referred:

(2021) SCC Online SC Page 801

THE HON'BLE MRS. JUSTICE SUREPALLI NANDA**W.P. No.38731 OF 2022****ORDER:**

Heard Mr.V.Murali Manohar, learned counsel appearing on behalf of the petitioners, learned Government Pleader for labour appearing on behalf of respondent Nos.1 to 5, 17 and 19, Mr.V. Narasimha Goud, learned counsel appearing on behalf of respondent Nos.6, 7, 13 and 15, Mr. N.Praveen Kumar, learned standing counsel for TSRTC appearing on behalf of respondent No.18.

2. The Petitioners approached the Court seeking prayer as under :

".....to grant an order or direction or writ, more so in the nature of writ of Certiorari, calling for the records pertaining to Lr.No.C/924/2021 and orders dt.04-10-2022 and quash the same as being illegal, arbitrary and highhanded, apart from being violative of Article 14 of the Constitution of India, contrary to orders dt.20-12-2022 in W.P. No. 24872 of 2021 passed by this Hon'ble Court and pass such other order or orders....."

PERUSED THE RECORD**3. This Court passed Interim order dated 18.10.2022 in W.P.No.38731 of 2022, reads as under:**

“Notice to respondent Nos.6 to 19
Personal notice is permitted
Status quo, obtaining as on today, shall be maintained
till the next date of hearing.”
Post on 01.11.2022

4. The said interim order had been extended pending further orders vide order of this Court, dated 28.02.2023 passed in I.A.No.03 of 2023 in W.P.No.38731 of 2022 and the same are in force as on date.

5. A memo has been filed on behalf of petitioner No.4, who had filed present writ petition representing the petitioner No.1/RTC Telangana Mazdoor Union in the capacity of General Secretary and the contention of the said memo filed in the month of January, 2023, reads as under:

“It is humbly submitted that I am the Counsel representing A. Ramachandra Reddy, who is a petitioner No.4 in the above writ petition and he has filed the present writ

petition representing the petitioner No.1 Union, in the capacity of General Secretary. Since, Mr. A. Ramachandra Reddy is not interested to pursue the writ petition and accordingly he is not presenting the writ petition. Hence, I am requesting the Hon'ble Court to close the writ petition as Mr.A. Ramachandra Reddy is concerned, who is representing the petitioner No.1 Union and he is also petitioner No.4.

In the above circumstance, it is prayed that this Hon'ble Court may be pleased to close the writ petition No. 38731 of 2022 as so far as Mr. A. Ramachandra Reddy is concerned, who is petitioner No. 4 and also representing the petitioner No. 1 Union and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

6. The case of the Petitioners as per the averments made by the petitioners in the affidavit filed by the petitioners in support of the present Writ Petition, in brief, are as follows:

a) It is the case of the petitioners that, the 1st Petitioner union was registered under the Trade Unions Act, 1926 on 27.10.2011 at the office of the 4th Respondent vide registration number _____ is

A-4528 and an ad-hoc committee for the 1st Petitioner union was formed of which the 6th Respondent was the Working President, the 2nd Petitioner was the General Secretary, the 10th Respondent was the Chief Vice-President, the Respondent Nos. 11 and 14 were the Joint Secretary and the 12th Respondent was State Secretary and the same was intimated to the Managing Director, APSRTC vide communication dated 16.11.2011.

b) Thereafter, the Respondent Nos. 6, 7, 12, 13 and 14 have submitted their resignation due to internal disputes in the 1st Petitioner Union. However, the said respondents began to misrepresent that they were designated office-bearers of the Petitioner union by printing letter heads of the 1st Petitioner union with their names, despite having submitted their resignations on 28.09.2020. On 21.11.2020 the 2nd Petitioner, issued a public notice representing the 1st Petitioner union, on the letter-head of the 1st Petitioner union bringing to the notice of the general public about the illegal activities of a few former office-bearers of the 1st Petitioner union.

c) On 08.04.2021, a meeting of the Central Committee was called for by the General Secretary and in the presence of majority of the central it was unanimously resolved not to allow the Respondent Nos. 6, 7, 13, 14 and one G.L. Goud, who have resigned from the 1st Petitioner union and indulged in anti-Union activities, into the 1st Petitioner union, while accepting the resignation of the 2nd Petitioner and elected Mr. A. Ramchandra Reddy (4th Petitioner) in his place and the same was communicated to the TSRTC Employees TSRTC Employees' Thrift & Credit Cooperative Society Ltd. (TSRTC ET & CCS) that the 4th Petitioner is the new General Secretary of the 1st Petitioner union, who would be henceforth duly authorized to operate financial transactions along with the Treasurer of the 1st Petitioner union.

d) It is the specific case of the petitioners that, the State Committee of the 1st Petitioner union discovered that the 6th Respondent was continuing to forge and fabricate the letter-heads of the 1st Petitioner union and that the 6th Respondent, along with Respondent Nos. 7, 13 and 14, was misusing the fabricated letter-heads before various government offices and

forums and was attempting to wrongfully gain from such misrepresentation.

e) Subsequently, the 3rd Respondent, while allegedly exercising the powers conferred upon it by Sections 8 and 28 of the Trade Unions Act, 1926, passed an order dated 11.08.2021, wherein it made certain modifications in the "Form-B" register maintained for the 1st Petitioner union and that such modifications were made upon an alleged application received from the alleged founding members in 2011 i.e. at the time of incorporation. However, the 1st Petitioner union is not registered on the file of the 3rd Respondent and the said "Form-B" had been allegedly issued by the 3rd Respondent after the file of the 1st Petitioner union has been allegedly transferred to the office of the 3rd Respondent from the office of the 4th Respondent. Therefore, the action of the 3rd Respondent in issuing the impugned order in collusion with the Respondent Nos. 6, 7, 10, 13, 14, 15 and 16 is illegal, arbitrary and highhanded and in violation of the principles of natural justice, apart from being made without authority and the impugned "Form-B" dated 11.08.2021

f) It is further the case of the petitioner that, the 3rd Respondent, without taking the above communications on record, has issued the impugned "Form-B" and declared Respondent Nos. 6, 7, 10, 13, 14, 15 and 16 as the office-bearers of the 1st Petitioner union, when some of the aforementioned persons i.e. Respondent Nos. 6, 7, 13 and 14 had resigned from their positions on 28.09.2020 and had been subsequently expelled from the 1st Petitioner union on 21.11.2020 for their illegal activities.

g) Aggrieved by the order dated 11.08.2021 passed by the 3rd respondent, the 1st petitioner union has filed WP. No 24872 of 2021 before this court and this court through interim orders dated 14.10.2021 was pleased to suspend the alleged "Form- B."

h) Based on the interim orders dated 14.10.2021, the 1st Petitioner union made representation dated 29.12.2021 before the 4th Respondent requesting the said authority to update the records correctly with their names in order to avoid any mischief that could be played by any other imposters. However, Respondent No. 17, who was previously discharging duties as

the 3rd Respondent, had taken up the enquiry into the above matter as the 4th Respondent on the premise that he had also received a representation dated 29.12.2021 from the 6th Respondent who claims to be the General Secretary and under the premise that he is discharging his duties as the 4th Respondent.

i) Further, the Respondent No. 17, who in the capacity of the 4th Respondent, passed orders dated 18.05.2022 in Lr. No.C/924/2021 without arriving at any decision and directed the parties thereto to approach the civil court. Aggrieved by the said orders passed by the 4th Respondent, the Petitioners herein had filed WP No.24317 of 2022 and interim orders dated 29.06.2022 were passed directing the parties to maintain "Status Quo."

j) Pursuant to the interim directions dated 29.06.2022, the 17th Respondent, who in the capacity of the 4th Respondent, issued a notice bearing No.C/924/2021 dated 26.07.2022 calling upon the 4th Petitioner, to attend the enquiry being conducted on 01.08.2022 and to submit all the relevant papers, and records to establish his entitlement to represent the 1st Petitioner union and in pursuance to the said notice, the Petitioners herein attended

the enquiry. Further, the 4th Petitioner also brought to the notice of the 4th Respondent that as per Rule 24 of the byelaws of the 1st Petitioner union, only the General Secretary can call for a General body Meeting and therefore, the alleged meeting conducted by name "Athimeeya Sammelanam" could not be a general body meeting and requested the 4th Respondent to update the records correctly.

k. While things stood thus, the 17th Respondent in his capacity as the 4th Respondent, had passed orders dated 04-10-2022 in Lr.No.C/924/2021, without giving the Petitioners herein and Respondents an opportunity of combined hearing and held that the group headed by the 6th Respondent is treated as, entitled to continue as elected body of the 1st Petitioner union. Aggrieved by the said orders passed by the 4th Respondent, the present Writ Petition is filed.

7. The counter affidavit has been filed by respondent No.4, and in particular, paras 7 and 8, read as under:

7. In reply to the averments made in Para No.19 to 24 of the Petitioner's affidavit, it is submitted that, as well as

grounds in WP and also in para no.25 & 26. **I submit that, the 1st Writ Petition WP.No.24872 of 2021, the Hon'ble High Court directed the 4th Respondent to comply the following order.**

"In view of the disputes between two rival groups, the aggrieved party may approach the respondent No.4 by making appropriate representations and on such representation, a preliminary /summary enquiry shall be conducted by the respondent no.4 and render a decision as to the group which is entitled to continue as elected body of the petitioner trade union. After such decision is given by the Respondent no.4, any aggrieved party is at liberty to approach the Civil court."

- a. Consequent to the directions of the Hon'ble High Court, both rival groups headed by A.R.Reddy & M.Thomas Reddy respectively approached this 4th Respondent therein, Then in obedience of the above directions of the Hon'ble High Court a summary enquiry was conducted after putting both parties concerned on notice and the 4th respondent identified a number of disputed questions of facts prevailing in this case both groups are claiming as duly elected, but there are violations from both sides in taking action as per the bye laws of the union.
- b. In view of the above circumstances 4th Respondent advised that both rival unions may conduct General body meeting of the RTC Telangana Mazdoor Union Regd.No.A-4528 on agreed date and conduct elections duly appointing in mutually agreed person as election officer to determine which group is entitled as elected body of the union. If there is no

consensus on the above advice both parties are at liberty to approach the appropriate forum in this matter.

c. Aggrieved by the above advice one of the rival group lead by Sri. A.Ramachandra Reddy has filed another writ petition WP No.24317 of 2022 wherein the Hon'ble High Court was pleased to direct the Respondent No.4 on 07.07.2022 to conduct *denova* enquiry and comply with the orders passed in WP No.24872 of 2021 preferably within 3 months.

d. In compliance to the Hon'ble High Court orders in WP No. 24317 of 2022 the 4th Respondent and 17th Respondent conducted *denova* enquiry and rendered the following decision through Lr.No.C/924/2021 dated 04.10.2022 to both parties as follows:

"In the light of the background and based on the facts and strength derived from the documents and records before the 4th Respondent and the records maintained by the Addl. Registrar of Trade Union & Joint Commissioner of Labour, Head Quarters, in the O/o. Commissioner of Labour, Telangana State, Hyderabad as statutory mandate, and opined that the group headed by Sri. M.Thomas Reddy, general Secretary is treated as entitled to continue as elected body of the trade union, RTC Telangana Mazdoor Union, Regd. No.A-4528."

8. It is submitted that as per Code of Discipline the Registrar or Addl. Registrar of Trade Union has no authority or power to direct the election of the office bearers of trade union under his own supervision or the supervision of his

**nominee since the intra union dispute exists.
The aggrieved party may approach the Civil
Court as directed by the Hon'ble High Court in
WP No. 24872 of 2021 as mentioned *supra*.**

8. Taking into consideration the contents of the memo filed on behalf of petitioner No.4 (referred to and extracted above) filed in the month of January, 2020, the present Writ Petition is dismissed against petitioner No.4.

DISCUSSION AND CONCLUSION:

9. A bare perusal of the averments at para No.8 of the counter affidavit filed on behalf of respondent No.4 indicates that as per Code of Discipline, the Registrar or Additional Registrar of Trade Union has no authority or power to direct the election of the office bearers of trade union under his own supervision or the supervision of his nominee since the intra union dispute exists and the remedy of the aggrieved party is to approach the Civil Court as directed by this Court in W.P.No.24872 of 2021.

10. The Division Bench of Apex Court in a judgment dated 20.04.2021 reported in (2021) 6 SCC 771 in M/s. Radhakrishnan Industries Vs. State of Himachal Pradesh, referred to Whirlpool Corporation Vs. Registrar of Trade Marks (reported in (1998) 8 SCC 1) and further the said view had been reiterated by a Full Bench of the Apex Court (3 Judges) in a judgment reported in (2021) SCC Online SC page 801 in Magadh Sugar and Energy Limited Vs. State of Bihar and Others dated 24.09.2021 and in the said judgment at para 28 it is observed as under :

28. The principles of law which emerge are that:

- (i) The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;*
- (ii) The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;*
- (iii) Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the*

enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged;

(iv) An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

(v) When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

(vii) In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise

of its writ jurisdiction, such a view would not readily be interfered with."

In the present case clause (ii) (iv) (v) (vii) are attracted.

11. Taking into consideration the averments made at para No.8 of the counter affidavit filed by respondent No.4. This Court opines that the Status Quo order, dated 18.10.2022 passed in W.P.No.38731 of 2022 needs to be vacated since disputed questions of fact cannot be gone into under Article 226 of Constitution of India since disputes are prevailing in the present case between two groups and duly taking into consideration the observations of full bench of the Apex Court in the Judgment dated 24.09.2021 reported in (2021) SCC Online SC Page 801 in "Magadh Sugar and Energy Limited Vs. State of Bihar", the Status Quo order granted by this Court on 18.10.2022 passed in W.P.No.38731 of 2022 stands vacated and the Writ Petition stands disposed of giving liberty to the aggrieved party to approach the Civil

Court as directed by this Court in W.P.No.24872 of 2021.

However there shall be no order as to costs.

Miscellaneous petitions, if any pending, in this writ petition shall stand closed.

SUREPALLI NANDA, J

Date: 03.06.2024
ktm

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.No.38731 OF 2022
(L.R.Copy to be marked)

Date: 03.06.2024.

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