

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.995 OF 2023

Between:

DEFMETLAB Workers National Union

... **Petitioner**

And

The Union of India & 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?

MRS. JUSTICE SUREPALLI NANDA

THE HON'BLE MRS JUSTICE SUREPALLI NANDA**W.P.No.995 OF 2023****% 03.06.2024****Between:**

DEFMETLAB Workers National Union

... Petitioner

And

\$ The Union of India & others

... Respondents**< Gist:****> Head Note:**

! Counsel for the Petitioner : Mr. B.Shiva Kumar

^ Counsel for Respondents : Mr. Gadi Praveen Kumar,
Ld.Deputy Solicitor General for
R1 to R3 & R5

Mr. A.Suryanarayana, for R4

? Cases Referred:

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HON'BLE MRS JUSTICE SUREPALLI NANDA**WRIT PETITION No.995 OF 2023****ORDER:**

Heard learned counsel Sri B. Shiva Kumar, appearing on behalf of the Petitioner, Sri Gadi Praveen Kumar, learned Deputy Solicitor General of India, appearing on behalf of the Respondents 1 to 3 & 5 and Sri A.Suryanarayana, learned counsel appearing on behalf of the respondent No.4.

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

"declaring the action of the Respondent No. 2 conducting the recognition process of the Respondent No. 4 including the petitioner union's name contrary to the procedure and also against the undertaking given before the Respondent No.5 Authority as illegal, arbitrary and unjust, consequently direct the Respondent No.2 to conduct a fresh recognition process without including the Petitioner's union name".

PERUSED THE RECORD :

3. The counter affidavit filed on behalf of respondent Nos.1 to 3 and in particular, para Nos. 16, 17, 18, 23, 24 and 25, read as under:

"16. In this connection, it is submitted that the allegation made by the Petitioner is absolutely wrong because the Secret Ballot is conducted from the list of all eligible Workmen and there is every possibility that some of the Workmen who are the members of 'DEFMETLAB Workers National Union' may utilize their franchise and cast their vote in favour of 'DMRL Karmika Sangh Union' also if DEFMETLAB Workers National Union' name and logo is not there in the ballot paper. The procedure adopted by the Office of the Respondent No.2 is valid and just and not highly illegal and arbitrary as alleged by the Petitioner in this paragraph.

17. In reply to para No. (6) it is submitted that the representative of the Office of the Respondent No.2 has stated **that the election process is only for the 'DMRL Karmika Sangh' to ascertain whether they meet 15% of membership strength of Workmen and the process of Secret Ballot will not affect the existing recognized Petitioner's Union i.e. 'DEFMETLAB Workers National Union'.**

18. It is submitted that when there is a recognized Union already existing in the Office of Respondent No.2 and another Registered Union is seeking the recognition from the Competent Authority, Secret Ballot system is followed, in the absence of Check-off system. **In the Ballot paper, the name (s) all Unions recognized/unrecognized should be printed to avoid dual membership. It does not mean that the Office of Respondent No.2 would**

like to determine the relative strength of any Union participated in the Secret Ballot election as alleged by the Petitioner. This exercise has been made to avoid dual membership and the procedure adopted is valid and just but it is not illegal and arbitrary as alleged by the Petitioner in this paragraph.

23. In reply to para No. (11) it is submitted that the Petitioner states that there is no objection from their side for recognition of 'DMRL Karmika Sangh', Respondent No.4 Union yet they raise some objection or the other in the process of Secret Ballot election for verification of membership of 'DMRL Karmika Sangh Union'. **The Petitioner knows very well that the Secret Ballot election conducted by Respondent No.2 for recognition of Respondent No.4 does not harm them in any way and the Petitioner's Union would continue to function with the recognition already granted to them and there will be no verification of membership in their respect for the present.**

24. It is submitted that unless the names and symbols of all Unions existed in the Office of Respondent No.2 are shown in the ballot paper, the method of secret ballot election process will not be proper to ascertain the mandatory requirement whether the Union, seeking recognition, meets the criteria of 15% membership from the total strength of eligible Workmen in the Office of Respondent No. 2. The above said procedure is very much essential in the secret ballot election to avoid dual

membership from the eligible Workmen otherwise the Management i.e. Respondent No.2 will be subject to face different types of problems from different angles.

25. In view of the facts and circumstances as stated above, it is prayed that this Hon'ble Court may be pleased to declare that the action taken by Respondent No.2 is quite just and proper. Further, **the Petitioner herein does not deserve any relief sought for in the Writ Petition because the Respondents 1 to 3 strictly followed the secret ballot procedure as explained above.** For the reasons stated above, it is prayed that this Hon'ble Court may be pleased to dismiss the present Writ Petition with costs and pass such order or other orders as this Hon'ble Court deem fit and proper in the circumstances of the case."

4. The case of the Petitioner in brief as per the averments made in the affidavit filed by the Petitioner in support of the present writ petition is as under :

a) The Petitioner union is a registered trade union bearing No. 3219/1968 registered under Trade Union Act 1926 and recognised by the Government of India, Ministry of Defense vide Letter No. PC 94188/A/RD-30/13966-71/D (Lab) dated 29.11.1971. The petitioner Union is also recognized all over India including 2nd respondent unit.

b) The Ministry of Defence issued guidelines from time to time and on 03.03.1997 revised procedure for recognition of Union of workers employed in Ministry of Defence installations was issued. The 4th Respondent is registered union and the 4th respondent gave application for recognition of their union, and therefore, the 2nd Respondent to grant recognition to DMRL Karmika Sangh initiated process for recognition of 4th Respondent union and the Management in the process of recognition of Respondent No.4 through secret ballot verification, included the name of the Petitioner union and logo vide proceeding dated 07.12.2022 to conduct a secret ballot election, aggrieved by the same the Petitioner union approached the 5th Respondent stating that, by raising the dispute on the ground that the management agreed before the 5th Respondent that the Petitioner union name will not be included in recognition process, contrary to that petitioner name was included in process of recognition dated 21.12.2022, which is highly illegal arbitrary and unjust.

c) The Respondent Management agreed before Regional commission central that the petitioner union is not necessary for recognition process of 2nd Respondent and contrary to the said undertaking before the 5th Respondent and even before results

were declared, 4th Respondent stated that they got majority votes and defeated Petitioner union. In fact voting was conducted for recognition of 2nd Respondent union and not for determining the majority of the union.

d) Furthermore, in the year 2016 Petitioner union filed Writ Petition No. 28355 of 2016 challenging several irregularities and the same was dismissed for default, subsequently restoration petition was filed and same is pending before the High Court. Also, the Petitioner union has nothing to do with recognition process of 4th Respondent, the grievance of the Petitioner union is that the management is showing unfair treatment to the petitioner union.

e) At the outset, 2nd Respondent is encouraging 4th Respondent union to demoralize petitioner's union and even before the results were declared, 4th Respondent has given paper publication stating that petitioner union lost the elections. Moreover, the petitioner union is not objecting for recognition of 4th Respondent union but objecting for declaration of election result without conducting the elections. Aggrieved by the process of recognition proceedings dated 21.012.2022, the present writ petition is filed.

DISCUSSION AND CONCLUSION :

5. The main grievance of the Petitioner is that the 2nd Respondent conducted the recognition process of Respondent No.4 including the Petitioner Union's name contrary to the procedure and also against the undertaking given before the 5th Respondent Authority and to consequently direct the Respondent No.2 to conduct a fresh recognition process without including Petitioner Union name.

6. The grievance of the Petitioner as put-forth in the present writ petition has in fact been answered at Para Nos. 17, 18 and 23 of the counter affidavit filed on behalf of respondent Nos. 1 to 3(referred to and extracted above).

7. A bare perusal of the averments made in the counter affidavit filed on behalf of Respondents No.1 to 3 clearly indicate that there will be no verification of the membership of Petitioner's Union for the present and that the process of secret ballot will not effect the existing recognized Petitioner's Union i.e., "DEFMETLAB WORKERS NATIONAL UNION" C/o. DMRL, Kanchanbagh, Hyderabad.

8. Taking into consideration the averments made in the counter affidavit at Para Nos. 16, 17, 18, 23, 24 and 25 (referred to and extracted above), this Court opines that Respondent Nos.1 to 3 conducted the secret ballot for ascertaining the mandatory requirement whether Respondent No.4 seeking recognition, meets the criteria of 15% membership from the strength of eligible workmen in the Office of Respondent No.2 only.

9. Taking into consideration the aforesaid facts and circumstances of the case and the averments made in the counter affidavit filed on behalf of Respondent Nos.1 to 3 (referred to and extracted above), this Court opines that Respondent Nos.1 to 3 strictly followed the procedure as mandated under the rules and further taking into consideration the clear admission at para No. 23 of the counter affidavit filed on behalf of Respondent Nos.1 to 3 that the secret ballot election conducted by Respondent No.2 for recognition of Respondent No.4 does not harm the Petitioner in any way and the Petitioner's Union would continue to function with the recognition already granted to the Petitioner and further that there will be no

verification of membership in respect of the Petitioner for the present and bringing the said averments in the counter affidavit filed on behalf of Respondent Nos.1 to 3 on record, the Writ Petition is disposed of. However, there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

MRS. JUSTICE SUREPALLI NANDA

Dated 03.06.2024

Note: L.R.copy to be marked

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Yvkr

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.No.995 OF 2023

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