

GAHC010020232021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/827/2021

N F RLY OBC EMPLOYEES ASSOCIATION AND ANR
REPRESENTED BY ITS GENERAL SECY., RAILWAY QUARTER NO. 186/B,
ADARSHA COLONY, MALIGAON, GUWAHATI 781011

2: GENERAL SECY.

N.F. RAILWAY OBC EMPLOYEES ASSOCIATION
RAILWAY QUARTER NO. 186/B
ADARSHA COLONY
MALIGAON
GUWAHATI 78101

VERSUS

THE UNION OF INDIA AND 3 ORS
REPRESENTED BY THE CHAIRMAN, RAILWAY BOARD, RAIL BHAWAN,
NEW DELHI 110001

2:RAILWAY BOARD

THROUGH ITS CHAIRMAN
MINISTRY OF RAILWAY
RAIL BHAWAN
NEW DELHI
PIN 110001

3:JOINT DIRECTOR
ESTT. (RES)
RAILWAY BOARD
RAIL BHAWAN
NEW DELHI
PIN 110001

4:GENERAL MANAGER (P)

N.F. RAILWAY
MALIGAON
GUWAHATI 781011
ASSAM

Linked Case : WP(C)/3601/2022

NF RLY OBC EMPLOYEES ASSOCIATION AND ANR
REPRESENTED BY ITS GENERAL SECRETARY
RAILWAY QUARTER NO. 186/B
ADARSHA COLONY
MALIGAON
GUWAHATI- 781011.

2: GENERAL SECRETARY
N.F. RAILWAY OBC EMPLOYEES ASSOCIATION
RAILWAY QUARTER NO. 186/B
ADARSHA COLONY
MALIGAON
GUWAHATI- 781011.
VERSUS

THE UNION OF INDIA AND 2 ORS
REPRESENTED BY THE CHAIRMAN
RAILWAY BOARD
RAIL BHAWAN
NEW DELHI- 110001.

2:RAILWAY BOARD
THROUGH ITS CHAIRMAN
MINISTRY OF RAILWAY
RAIL BHAWAN
NEW DELHI
PIN- 110001.

3:GENERAL MANAGER (P)
N.F. RAILWAY
MALIGAON
GUWAHATI- 781011
ASSAM.

Advocate for the Petitioner : Mr. G. J. Sarma, Advocate

Advocate for the Respondents : Mr. B. K. Das, Advocate
Ms. A. Gayan, Advocate

BEFORE

HONOURABLE MR. JUSTICE DEVASHIS BARUAH

Date of Hearing : 28.11.2023

Date of Judgment : 28.11.2023

JUDGMENT AND ORDER (ORAL)

Both the writ petitions are taken up for disposal by this common judgment and order.

2. From a perusal of the materials on record, it reveals that the petitioners' Association is a Society registered under the provisions of the Societies Registration Act, 1860. The petitioners' Association has its own set of byelaws. It is also an admitted fact that the petitioners' Association is affiliated to a Society in the name and style of *All India Other Backward Classes Railway Employees Federation*. The said All India Other Backward Classes Railway Employees Federation which is also a Society registered under the provisions of the Societies Registration Act, 1860 has its own set of byelaws. It is also an admitted fact that the All India Other Backward Classes Railway Employees Federation is recognized by the Railways Administration and on the basis of such recognition, the affiliated units of All India Other Backward Classes Railway Employees Federation

are also granted recognition and benefits.

3. The petitioner No.1 herein which is an affiliated unit of the All India Other Backward Classes Railway Employees Federation have filed the instant writ petition being aggrieved by the communication dated 22.12.2020 issued by the Joint Director Estt. (Res.), Railway Board wherein it was stated that the lists of elected office bearers of Zonal Associations approved/recommended by any other CEC member (apart from those circulated by Board vide their letter dated 06.10.2020) for circulation by the Zonal Railways would be null and void. On the basis of the said communication, the petitioners' Association with Shri V. P. Rama Rao as the General Secretary was deprived of the facilities extended in view of the approval of Shri S. Ramachandra Rao and Shri G. Prasad in the capacity of the General Secretary and President of the All India Other Backward Classes Railway Employees Federation for the year 2016-20. It is on the said basis that WP(C) No.827/2021 was filed.

4. The record reveals that this Court vide an order dated 23.02.2021 issued notice and directed that status-quo be maintained in respect of the possession of the official facilities till the next date. It reveals from the records and more particularly the byelaws of the petitioners' Association that the term of office of the office bearer is for 2 years. Under such circumstances, it is the further case of the petitioners' Association that the election of its members was held in the months of August, 2021 and a communication was issued on 04.08.2021 by the newly elected officials of the petitioners' Association to the Joint Director/Principal Chief Personal Officer, N.F. Railways, Maligaon for extending of facilities to the newly elected Zonal Executive Committee of the petitioners' Association.

However, as no steps were taken on 22.10.2021, another communication was issued to the General Manager and PCPO of the NF Railways requesting that the elected list be circulated by the Railways. It is the further case of the petitioners that in spite of those communications, the list was not circulated for which the second writ petition was filed being WP(C) No.3601/2022.

5. It is further relevant to take note of that a further subsequent event which has taken place subsequent to the filing of the writ petition in as much as the term of the office of the petitioners' Association after the election held in the month of August, 2021 also expired and a new elected office bearers of the Zonal Executive Committee of the petitioners was held on 30.07.2023 for the period from 2023-2025 and in that regard, a communication was issued on 14.08.2023 intimating the General Manager, NF Railways, Maligaon to extend the facilities to the newly elected Zonal Executive Committee Members.

6. This Court further finds it relevant to take note of the affidavit filed by the respondent Nos.1, 2 & 3 in WP(C) No.3601/2022 wherein it has been mentioned that vide the letter dated 06.08.2019, necessary facilities were provided to the office bearers of the N.F. Railway OBC Employees Association as per the Railway Board's extant norms. It was also mentioned that the Executive Committee of the N.F. Railway OBC Employees Association, Maligaon had approved and recommended by the All India Other Backward Classes Railway Employees Federation, New Delhi for circulation. Further to that, it has been mentioned that the term of the office of the said Zonal Executive Committee, NF Railways OBC Employees Association was for a period of 2 years from the date of taking

over the charge of the newly elected body and the term was completed on 05.08.2021. It was further stated that vide the communication dated 22.12.2020 of the Railway Board, facilities extended to illegal Zonal OBC Association were withdrawn on the request and approval of the General Secretary and the President of All India Other Backward Classes Railway Employees Federation for the year 2016-2020. The said Railway letter dated 22.12.2020 was issued in reference to All India Other Backward Classes Railway Employees Federation's letter dated 01.11.2020. Further to that, it was mentioned that in view of the order dated 23.02.2021 directing the maintenance of status-quo, no steps be taken as regards the circulation by the Railways. Further to that at paragraph No.12, it was mentioned that two different lists have been received from two groups requesting for circulation and the matter could not attain finality due to the status-quo granted in WP(C) No.827/2021 vide order dated 23.02.2021.

7. In the backdrop of the above facts, this Court has also duly considered the submission made by the learned counsels for the parties. From a perusal of the materials on record and after hearing the learned counsels for the parties it appears that the N.F. Railway OBC Employees Association is a recognized affiliated unit of All India Other Backward Classes Railway Employees Federation. It further reveals from the materials that there are internal disputes as to who is the actual Executive Committee of the N.F. Railway OBC Employees Association. At the request of the General Secretary and the President of All India Other Backward Classes Railway Employees Federation, the impugned communication dated 22.12.2020 was issued whereby the various authorized Zonal OBC

Associations were made null and void. Therefore, the issue involved in the instant writ petition is as to which faction of N.F. Railway OBC Employees Association is the actual Executive Body of the said Association. However, it is relevant to take note of that in the instant writ petition, neither the rival faction nor the All India Other Backward Classes Railway Employees Federation has been made parties.

8. The above therefore would show the fact that who is the actual Executive Authority of the N.F. Railway OBC Employees Association is disputed question of fact requiring detail evidence to be recorded, the said dispute therefore cannot be adjudicated under Article 226 of the Constitution. Further to that, without the presence of the All India Other Backward Classes Railway Employees Federation and the rival faction who also claims to be controlling the N.F. Railway OBC Employees Association being made parties, no effective writ can be issued.

9. Be that as it may, it is however relevant to take note of that the Executive Body of the petitioners for the period from 2019 to 2021 and 2021 to 2023 is no longer functioning and on 30.07.2023, a new Body has been constituted and in that regard a communication has already been sent to the General Manager, N.F. Railways as could be seen from the Annexure-I to the additional affidavit filed by the petitioners on 16.08.2023 in WP(C) No.3601/2022.

10. Taking into account that this Court is not in a position to decide the dispute on account of the disputed question of facts as well as on account of the necessary parties being not brought on record, this Court disposes both the writ petitions directing the General Manager, N.F. Railways to take a call on the said communication dated 14.08.2023 forwarded by the

petitioner and if on account of complicated disputed question of law and facts arising, the General Manager, N.F. Railways, Maligaon would be at liberty to direct the said petitioners to approach the appropriate forum.

11. In view of the above discussion and direction, both the writ petition stands disposed of.

JUDGE

Comparing Assistant