

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.30621 of 2015

Dated : 23.09.2015

Between:

Telangana All Beedi Karmika Sangham,
(Regd.No.A/TU/17/2010),
rep., by its General Secretary,
T.Anil Kumar alias Laxminarayana,
Telangana All Beedi Karmika Sangham,
R/o.3-22, Dubbaka, Medak District.

.. Petitioner

And

The State of Telangana,
rep., by its Principal Secretary,
Department of Labour and Employment,
Secretariat, Hyderabad & 2 others

.. Respondents

This Court made the following :

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ORDER :

The petitioner Union was registered under the Trade Union Act, 1926 (for short 'the Act') vide registration No.A/TU/17/2010. The petitioner Union claimed to have membership of more than 100 workers. The petitioner Trade Union seeks to espouse the cause of Beedi workers. Some of the Beedi workers lodged a complaint with the Deputy Commissioner of Labour, Sanga Reddy alleging that the petitioner Trade Union is illegally representing the Beedi workers and that there are several illegalities in formation of such union and no such union Office is established as claimed. Acting on such complaint, the Deputy Commissioner of Labour, Medak District at Sanga Reddy (2nd respondent) issued notice dated 16.05.2015 to the petitioner. Alleging that no reply was filed by the petitioner to the said notice, an order was passed on 29.08.2015 cancelling the registration of petitioner as Trade Union. Aggrieved thereby this writ petition is filed.

2. Heard learned counsel for the petitioner and learned Government Pleader for Labour.

3. Learned counsel for the petitioner contends that no notice was served on the petitioner. The petitioner Union office is located in the address as given, when the union was registered and without giving notice to the petitioner and without giving due opportunity, the impugned order is passed. The petitioner alleges malafides to the incumbent Deputy Commissioner of Labour, who is arrayed as 3rd respondent in this writ petition.

4. Learned Government Pleader produced Xerox copy of the notice sent to the petitioner to the address as given, when the union was registered and according to the endorsement made by the postal authorities, it shows that no such person is available in the address given. Since the notice is returned on the ground that no person is available in the address given and as per the records of the respondent authorities, the address given is the one, to which the notice was sent, the 2nd respondent accepted the allegations made in the complaint and passed the impugned order.

5. Learned counsel for the petitioner, in reply states that the order dated 29.08.2015 is served at the same address would show earlier notice is not effected properly. He further submits that in accordance with the provisions contained in Section 10 (b) of the Act, notice has to be sent by

registered post and there has to be minimum two months time, before taking action of withdrawing or canceling the certificate of registration, whereas, such procedure is not followed in the instant case. The notice is not sent through registered post but was sent through speed post. Learned counsel strenuously contends and reiterates that the union office is working from the same premises. Learned counsel also placed reliance on the decision of this Court in ***ECIL Employees Union Vs Deputy Registrar of Trade Unions and Deputy Commissioner of Labour, Hyderabad***^[1] and ***Coromandal Cement Factory Employees Union Vs Deputy Registrar of Trade Unions & Deputy Commissioner of Labour, Kurnool & Others***^[2].

6. Since there is no clarity with reference to the effective service of notice and having regard to the requirement of provision under Section 10 (b) of the Act, I am of the opinion that the matter requires re-consideration by the competent authority by giving due opportunity to the petitioner.

7. Learned Government Pleader fairly submits that the Deputy Commissioner would conduct enquiry, but the petitioner should represent on the specified date and it should not dodge in appearing before the Deputy Commissioner. Learned counsel for the petitioner agrees to appear on the date fixed by the Court.

8. Having regard to the fact that some apprehension is expressed with reference to the conduct of incumbent 2nd respondent, who is arrayed as 3rd respondent, though the allegations are not considered at this stage, in the interest of justice and to ensure fair play in a matter where it requires cancellation of registration of trade union, I am of considered opinion that such enquiry should be conducted by any other officer of the same rank. On instructions, learned Government Pleader, states that the Deputy Commissioner of Labour, Ranga Reddy, shall conduct enquiry.

9. Accordingly, the Deputy Commissioner of Labour, Ranga Reddy, is directed to conduct enquiry in pursuant to the show cause notice dated 16.05.2015. Any authorized person of the petitioner Union shall appear before the Deputy Commissioner of Labour, Ranga Reddy, on 05.10.2015 at 3.00 p.m. The Deputy Commissioner of Labour, Ranga Reddy is directed to furnish

all the relevant documents to the petitioner, which is the basis for issuance of notice dated 16.05.2015 along with the copy of notice. He shall also put on notice the complainants at whose instance the proceedings are initiated. The Deputy Commissioner of Labour, Ranga Reddy, shall objectively, consider the issue and pass appropriate orders as warranted by law. It is made clear that adverse comments made against the 3rd respondent, are not taken note of, in so far as this writ petition is concerned.

10. Accordingly, the writ petition is allowed setting aside the order dated 29.08.2015 and the matter is remitted to the Deputy Commissioner of Labour, Ranga Reddy. There shall be no order as to costs.

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

P.NAVEEN RAO,J

23rd September, 2015

Note : Issue c.c. by 29.09.2015

B/o.

Rds

[\[1\]](#) 2001 II LLJ 76

[\[2\]](#) 2001 I LLJ 947