

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No.2869 OF 2006

ORDER:

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No representation on behalf of the petitioner, inspite of the matter being posted under the caption 'for dismissal'. Heard learned counsel for the respondents and perused the records.

The present Writ Petition came to be filed seeking to declare the inaction of the first respondent in taking steps to prosecute the second respondent under Section 31 of the Industrial Disputes Act (for short, 'the I.D.Act') for willfully refusing to accord recognition as protected workmen to the office bearers of the petitioner Union as per the application dated 28.04.2005 amounts to dereliction of lawful duty and further direct the first respondent to forthwith take steps by obtaining authorisation from the third respondent.

The averments in the affidavit reads as under:

The petitioner is the General Secretary of the Hyderabad Gymkhana Employees Union. The respondent is a club which provides food, alcoholic drinks, facilities for playing various games. It engages number of workmen as cooks, bearers, house-keeping workers, etc. It is stated that in the interest of preventing victimization of workmen and unfair labour practices, the law provides certain amount of protection to a specified number of workmen chosen by Union. Section 33(4) of the I.D.Act provides that 1% of the workforce of an establishment governed by the I.D.Act shall be recognized as protected workmen by the management and protection afforded by law to them is set out in Section 33(3) of the I.D.Act. Rule 61 of the I.D. (Central) Rules lays down the procedure for grant of such recognition. Rule 63 of A.P. (Industrial Disputes) Rules deals with the identical issue. As per the said Rule, every year on or before 30th April, Union must submit the list of workmen which it would like to have the status of protected workmen and the management shall give such recognition to the number permissible and communicate the same to the Union within fifteen days thereafter. It is stated that on 28.04.2005, the Union

submitted a list of five office bearers of the Union to the management and sought their recognition as protected workmen. As there was no response for three weeks, the Union gave a complaint on 22.08.2005 to the first respondent seeking action against the management for violation of Section 33(4) of the I.D.Act. The second respondent then sent a communication dated 22.09.2005, directing the management to follow the provisions of law. As there is no response from the respondents, the present Writ Petition is filed.

Learned counsel for the second respondent submits that nothing survives for adjudication in the present Writ Petition since the dispute is with regard to year 2005-2006. According to him, an application dated 28.04.2005 made by the employees discloses that only five of the members of the Union were entitled to be declared as protected workmen and the management was directed to recognize the five office bearers as protected workmen.

Further, a counter affidavit filed by the first respondent discloses that the petitioner has already submitted application giving the names of the office bearers to the second respondent, which means the petitioner has done its duty by submitting the application within time. The counter further discloses that the first respondent requested the second respondent to recognize office bearers of the petitioner Union as protected workmen and merely because they fail to do so, the office bearers of the petitioner Union as protected workmen, will not be deprived of protection under I.D.Act. Once the application indicating the names of the office bearers of the registered trade union is submitted to the management within the time limitation, their rights are automatically protected as per the Act. Therefore, it is stated that the averments of the petitioner stating that the office bearers are running the risk of victimization due to non recognition as protected workmen is incorrect.

As stated above, there is no representation on behalf of the petitioner, though the matter was posted under the caption 'for dismissal'. Even otherwise on merits, this Court is of the opinion that nothing survives for adjudication in this Writ Petition for the reason that the dispute is with regard to non-recognition of five members of the Union for the year 2005-2006. Once an application is made indicating the names of the office bearers of the Union, their rights are automatically protected. It is to be noted that they have already

submitted an application giving names of the office bearers before 30th April, 2005. Therefore, their apprehension is misfounded. Apart from that, the petitioner has a remedy of approaching Industrial Tribunal, if they are of the opinion that no proper recognition was given to them by the second respondent.

Viewed from any angle, this Court is of the view that the petitioner is not entitled for the relief as sought for. Hence, the Writ Petition is dismissed. No costs.

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

JUSTICE C. PRAVEEN KUMAR

26.11.2015

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