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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6423/2013 & CM No. 14005/2013

NATIONAL FRONT OF INDIAN TRADE
UNIONS (DHN)

..... Petitioner

Through: Mr A.K. Bajpai & Mr Praveen Gupta,
Advs.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr Dev P. Bhardwaj, CGSC with Mr
M.K. Chaudhary, Dy. Chief Labour Commissioner.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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28.01.2015

1. This is a petition filed under Article 226 of the Constitution. The petitioner/union is, essentially, aggrieved by the fact that the Standing Committee has taken a decision to decline its claim for verification and consequent recognition as a central trade union, based on reasons, which according to the petitioner, are unsustainable.

1.1 It is in this connection, that the petitioner/union has impugned the minutes of meeting of the Standing Committee dated 21.06.2013 and 22.07.2013, and the letter of the Deputy Chief Labour Commissioner (C) dated 26.08.2013.

2. Briefly, the broad facts as culled from the pleadings are as follows:

2.1 On 11.01.2008, the petitioner/union was recognized as a central trade union.

2.2 It is the petitioner's case that the recognition continues until fresh verification of membership is done, and that, the verification is done every four years.

2.3 It is also the petitioner's/union's case that an intimation was sent for verification of membership of various unions by the Ministry of Labour and Employment, Government of India, via the General Secretary, Trade Union Co-ordination Centre. The communication, sent in this behalf, is dated 31.10.2012.

2.3 The petitioner/union claims that as per the format sent by the Dy. Labour Commissioner (C), documents were filed for verification, on 30.03.2012. According to the petitioner/union, there were no defects in the information supplied, and that, the information supplied was filed in accordance with the requirement of the Standing Committee. It is also the petitioner's/ union's case that details were given, as required, both state-wise and industry-wise.

2.4 It is not disputed before me that, the Chief Labour Commissioner (C), had conducted a scrutiny of the information supplied by the petitioner/union, whereupon it was placed before the Standing Committee at its meeting held on 21.06.2013. The minutes of the Standing Committee dated 21.06.2013, in so far as the petitioner is concerned, set out a singular reason for rejection of the petitioner's claim for recognition. The reason given is as follows: ***"The CTUO has not submitted claims State-wise"***.

2.5 Being aggrieved by the same, the petitioner/union addressed a letter dated 26.06.2013 to the Standing Committee. The petitioner's/ union's protest letter was considered by the Standing Committee, at its meeting held on 27.07.2013, wherein the following directions were passed:

“..... CLC(C) stated that a detailed discussion has already taken place. It is privilege of the Standing Committee to consider the representation of NFITU (DHN) and it seemed no consensus on this issue and requested the members to express their precise willingness by saying yes or no. The representatives from BMS, INTUC, HMS, AITUC, CITU, AICCTU and AIUTUC showed willingness in favour of

rejection of the request of the NFITU (DHN) whereas the representative from IPF, NFITU (DHN) and TUCC stated that the revised claim should be accepted. Dr. Deepak Jaiswal requested that the process of general verification should be stopped and commented that the removal of clause of engaging retired High Court judge from the verification procedure was also wrong.

CLC(C) concluded the meeting by stating that the NFITU (DHN) has been well heard in detail by the Standing Committee, which has rejected the representation of NFITU (DHN).....”

2.6 The petitioner was dissatisfied with the aforesaid decision and, therefore, registered its protest, once again vide communication dated 05.07.2013. It appears, this communication met with the same fate, as the Office of the Chief Labour Commissioner (C), Ministry of Labour and Employment, Government of India, vide its communication dated 26.08.2013, rejected the petitioner's/union's claim by observing that its claims were not submitted state-wise as per the norms fixed by the Standing Committee and circulated by it, vide instructions dated 31.10.2012.

3. It is in this background, that the petitioner has impugned the aforesaid decisions by way of the present petition. Notice in this writ petition was issued on 08.10.2013, whereupon a counter affidavit has been filed by the respondents.

3.1 The matter was heard by me for a period of time on the previous date, i.e., 21.01.2015. Mr Bhardwaj, who appears for the respondents, on that date, brought to fore some discrepancies, which were embedded in the information supplied by the petitioner/union. It is in that background that I had, on 21.01.2015, directed Mr Bhardwaj to scrutinize the proforma filed by the petitioner/ union and revert to court as to the extent to which information given therein met, if at all, with the criteria prescribed for verification of

membership of the trade unions affiliated to the central trade organization.

3.2 Mr Bhardwaj today has returned with necessary instructions. He states that an analysis of the deficiencies has been carried out by the respondents. Mr Bhardwaj says that the analysis shows that, even if the discrepancies, in the information supplied by the petitioner/union is taken into account, the petitioner/ union meets the minimum eligibility criteria stipulated for verification. In the petition, in particular in paragraph 14, the averment with regard to eligibility criteria is set out as follows:

Eligibility Criteria	Requirement	Actual
Union Membership	8,00,000	60,68,784
Number of registered unions in the States	8	15
Presence in number of industries	8	37

4. Having regard to the above, I asked Mr Bhardwaj to confirm, as to whether the petitioner/union meets the minimum criteria for membership, number of registered unions in the State, and the number of industries, in which the petitioner- union is represented.

4.1 Mr Bhardwaj, unequivocally, on instructions of M.K. Chaudhary, Dy. Chief Labour Commissioner, who is present in court, has submitted that the petitioner/union meets the minimum eligibility criteria. Mr Bhardwaj, has only, expressed one apprehension, which is that the verification exercise has already commenced, and if, this court were to pass any direction for verification qua the petitioner / union, it would generally delay the entire process of verification. It is also Mr Bhardwaj's contention that the petitioner/union being member of the Standing Committee it, in a sense, acquiesced to the decision.

5. According to me, any administrative difficulty in verification cannot come in the way of the petitioner / union being denied relief if, it is otherwise entitled to it in law. Mr Bajpai, on being asked, has said that the only relief that the petitioner/union seeks, is qua verification. The other prayers made in the petition, with regard to minutes of meeting of the Standing Committee dated 21.06.2013 and 22.07.2013 and the communication dated 26.08.2013 of the Deputy Chief Labour Commissioner (C) are, according to Mr Bajpai, only consequential in nature.

5.1 As regards Mr Bhardwaj's submission that the petitioner/ union has acquiesced in the process whereby the petitioner/ union case was rejected, in my view, is neither here nor there. A perusal of the minutes show that petitioner along with others had insisted that its claim should be accepted. The petitioner/union has demonstrated that it meets the eligibility criteria and, therefore, as indicated above, it cannot be denied the relief as prayed for in the present petition.

6. Having regard to the above, the respondents are directed to, once again, carry out verification with regard to the petitioner/union. The consequent effect of the same would be that in so far as petitioner/union is concerned, the minutes of meeting dated 21.06.2013 and 22.07.2013 and communication dated 26.08.2013 of the Deputy Chief Labour Commissioner (C), shall stand set aside. It is ordered accordingly.

7. The petition and the application are disposed of with the aforesaid directions.

8. Dasti.

RAJIV SHAKDHER, J

JANUARY 28, 2015
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