

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20020 of 2013

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1. E.C. Railway Mazdoor Union, 506/384, New Lalji Tola, Near Kabristan,
Patna- 800001, through its General Secretary-B.K. Singh Son of Late
Ramanand Singh Petitioner/s

Versus

1. The State of Bihar & Ors
2. The Railway Board represented by its Chairman, Ministry of Railways,
Government of India, Rail Bhawan, New Delhi
3. East Central Railway, Zonal Headquarter, Hajipur, District- Vaishali-
844101, represented by its General Manager
4. The Chief Personnel Officer-Cum-Returning Officer, East Central
Railway, Zonal Headquarter, Hajipur, District- Vaishali, Bihar- 844101
5. The Executive Director/Erp and Member Secretary, Secret Ballet
Election Committee, Ministry of Railway (Railway Board), Government of
India, Rail Bhawan, New Delhi
6. East Central Railway Karamchari Union, Railway Station Building, 1st
Floor, Patna Junction, Patna- 800001, Represented By Its General
Secretary- Shri S.K. Pandey
7. The Registrar of Trade Unions-Cum-Labour Commissioner, Bihar,
Labour Resources Department, Vikas Bhawan, New Secretariat Building,
Bailey Road, Patna- 800001

..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Sinha, Adv.
Mr. Manish Kumar, Adv.

For the Respondent Nos. 2 to 5 : Mr. Satyeshwar Prasad, Adv.
Mr. Ashok Kumar Keshri, Adv.

For the Respondent No.6 : Mr. A.B.Ojha, Sr. Adv.
: Mr. Bharat Bhushan, Adv.
: Mr. Nitesh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

3 18-04-2016 Heard Mr. Alok Kumar Sinha, learned counsel for the

petitioner, Mr. A.K. Keshri learned Senior Panel Counsel along

with Mr. Satyeshwar Prasad for the Railways and Mr. A.B. Ojha,

learned Senior Counsel for the respondent No.6.

The petitioner prays for a writ in the nature of certiorari for
quashing the Memo No. ECR/SBC/2012-13 dated 3.5.2013 issued

by the Chief Personal Officer-cum-Returning Officer, East Central Railway, Zonal Headquarter, Hajipur in the district of Vaishali whereby the East Central Railway Karamchari Union has been declared as the sole recognized union for a period of 6 years under Group 'C' and Group 'D' of the Non Gazetted Employees of the East Central Railway on the basis of secret ballot election.

According to the petitioner, the success of the union in the election rests on false information and concealment of facts and about which a representation had been filed under the modalities so prescribed, a copy of which is present at Annexure-9 but the same remained pending at the stage of the Returning Officer without disposal and resultantly, the respondent No.6 has been declared as the recognized Union. Although Mr. Sinha prayed for to seek a direction from this Court requiring a disposal of the objection filed by the petitioner before the Returning Officer but in my opinion, once the election has been held and the respondent No.6 has been declared to be a recognized union of the East Central Railway for Group 'C' and Group 'D' Non Gazetted Employees, the remedy for the petitioner would lie by way of an election dispute and since according to Mr. Sinha, the modalities do not prescribe a forum for raising such election dispute then it would lie before the Civil Court of competent jurisdiction.

Mr. Keshri, learned counsel for the respondent railways and Mr. Ojha for the returned Union oppose the charge to submit that the election was fair and the allegation is without any foundation.

Be that as it may, as observed by me since the guidelines do not provide a forum for adjudication of election disputes hence in view of the position settled under the judgment of this Court reported in 1995(1)PLJR 400, the remedy would be by way of a suit before a competent court of civil jurisdiction.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

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