

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2016

CORAM

THE HON'BLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.32585 of 2016

and

WMP No.28242 of 2016

The Tamil Nadu Press and
Media Reporters Union
Rep by General Secretary
M.Perumal
No.2 Jawaharlal Nehru Salai
1st Floor Ambal Nagar Main Road
Ekkaduthangal Chennai-32 ... Petitioner

Vs

The Additional Registrar of
Trade Union-1
D.M.S. Complex Teynampet
Chennai-600 006. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling records of the impugned cancellation order 33/ 3802/ 2014 dated 26.03.2015 and quash the same and direct the respondent to issue a fresh show cause notice.

For Petitioner : Mr.Radhakrishnan for
Mr.R.Rajaram

For Respondent : Mrs.M.Lalitha,
Government Advocate

ORDER

Heard Mr.Radhakrishnan, learned counsel for Mr.R.rajaram, learned counsel for the petitioner and Mrs.M.Lalitha, learned Government Advocate, who took notice for the respondent and with their consent, the main writ petition itself is taken up for disposal.

2. This writ petition is filed challenging the impugned cancellation order dated 26.03.2015 and to direct the respondent to issue a fresh show cause notice.

3. The petitioner is a Reporters' Union, which got registered on 09.09.2002 under the Trade Unions Act, 1926 in the name of "Tamil Nadu Press and Media Reporters Union" and a Certificate of Registration of Trade Union was also issued. At the time of registration, the Union was functioning at No.4/197, Bells Road, III Floor, Chepauk, Chennai-5. Thereafter, the Union was shifted from Chepauk to Ashok Nagar in 2004 and finally to Ekkaduthangal, Chennai 32 in the year 2009, where, the petitioner continues to function. The change of address of the petitioner Union as 4/9, Bharathiar Street, II Floor, Ambal Nagar Main Road, Ekkaduthangal, Chennai 32, was also intimated to the respondent by way of annual returns for the year 2009 filed under Section 18 of the Trade Unions Act. However, the impugned order of cancellation of registration has been passed on 26.03.2015 for non submission of annual report in Form-E for the year 2010 and also for non filing annual returns for the years 2011, 2012 and 2013. Aggrieved over the same, the petitioner is before this Court.

4. It is evident from the records that at the time of registration, the the petitioner Union was functioning at Chepauk and it got shifted to Ekkaduthangal in the year 2009, as evident from the annual report of the petitioner Union for the year ending 31.12.2009. The petitioner also submitted the annual return for the year 2009 along with enclosures vide their letter dated 15.03.2010. A perusal of the said letter reveals the present address of the petitioner. Therefore, it is clear that the shifting of the petitioner's place of business was duly informed to the respondent. However, the respondent, by the impugned order, cancelled the registration by stating that they have not submitted the annual report in Form-E for the year 2010 and also they have not filed annual returns for the years 2011, 2012 and 2013.

5. A glance reading of the impugned order would go to show that the impugned order bears the address where the petitioner Union was earlier functioning viz, Chepauk, whereas the petitioner is now functioning at Ekkaduthangal, which has already been referred to. Therefore, the respondent was not correct in sending the impugned order to the old address at Chepauk and this Court is of the view that there is violation of principles of natural justice. Moreover, the cancellation of registration will result in civil consequences.

6. At this juncture, it is useful to extract below Section 10 of the Trade Unions Act, 1926:-

"10. Cancellation of registration: - A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar-

(a) on the application of the Trade Union to be verified in such manner as may be prescribed; or

(b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provisions of the Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any matter provision for which is required by section 6:

[(c) if the Registrar is satisfied that a registered Trade Union of workmen ceases to have the requisite number of members:]

Provided that no less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union".

7. The impugned order dated 26.03.2015 has been passed in violation of the aforesaid section. The reason for coming to the conclusion that there is violation of principles of natural justice is that there is no scope for the respondent to issue notice to the petitioner, as the impugned order itself shows only the original address of the petitioner and not the new address. It is also brought to the notice of this Court that the impugned order has not been served and the same has been obtained by the petitioner only under the RTI Act. That apart, the impugned order does not reflect service of any show cause notice, as contemplated under Section 10 of the Act. Therefore, there is violation of statutory provision, resulting in initiation of impugned order. Hence, this Court is of the considered view the impugned order is liable to be set aside and the matter has to be remanded to the respondent for fresh consideration.

8. Accordingly, the impugned order dated 26.03.2015 is set aside and the matter is remanded to the respondent, who shall issue notice to the petitioner's present address and thereafter pass appropriate orders at the earliest.

The writ petition is allowed with the above directions. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Additional Registrar of
Trade Union-1
D.M.S. Complex Teynampet
Chennai-600 006.

+1cc to the Government Pleader, S.R.No.53117

W.P.No.32585 of 2016

NR(CO)
CA(04/10/2016)



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