

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.4312 of 2016
and
W.M.P.No.3654 of 2016

R.Sundaramurthy Petitioner

Vs.

1. The Chief General Manager,
BSNL, Tamil Nadu Circle,
16, Greams Road,
Chennai-6.
 2. Laision Officer,
BSNL, Tamilnadu Circle,
16, Greams Road,
Chennai-6.
 3. V.Nagamani
Joint Election Co-ordinator,
SEWA BSNL Tamil Nadu Circle,
AC-21, Type-III,
BSNL Staff Quarters,
Vyasar Nagar, Perambur,
Chennai-39.
 4. R.Chandrasekar,
Joint Election Co-ordinator,
SEWA BSNL Tamil Nadu Circle,
AC-21, Type-III,
BSNL Staff Quarters,
Vyasar Nagar, Perambur,
Chennai-39.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to Impugned Letter dated 28.1.2016 bearing Ref.No.SCT/SEWA BSNL/Delegate List/2015-16/30 dated - at Chennai-6, passed by the 2nd respondent and to quash the same and further, to direct the 1st respondent to conduct Delegate Election and Election for Tamil Nadu Circle SEWA BSNL as per the SEWA BSNL BY Law.

For Petitioner : Mr.D.Selvam for M/s.R.Rajesh kumar

For respondents : Mr.K.R.Rameshkumar (For R1 & R2)
Mr.R.S.Anandan (For R3)

ORDER

This writ petition has been filed by the petitioner praying for issuance of a writ of Certiorarified Mandamus, to call for the records pertaining to Impugned Letter dated 28.1.2016 bearing Ref.No.SCT/SEWA BSNL/Delegate List/2015-16/30, passed by the 2nd respondent and to quash the same and further, to direct the 1st respondent to conduct Delegate Election and Election for Tamil Nadu Circle SEWA BSNL as per the SEWA BSNL Bylaw.

2-1.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2-1.The petitioner is a Junior Accounts Officer and he belongs to Schedule Caste Community and he is the President of the Secondary Switching Areas (in short SSA) of Thanjavur District, SEWA BSNL. He files the present writ petition in his individual capacity as his rights and privileges are affected.

2-2.It is stated by the petitioner that SC/ST Employees Welfare Association of BSNL (in short 'SEWA BSNL') is the only recognized welfare association of BSNL, which primarily looks after the interest and welfare of the SC/ST Employees of BSNL. SEWA BSNL was recognized on 22.05.2007, pursuant to which the association has been functioning for the Welfare of SC/ST Employees of BSNL. The Association has its own registered bylaws which govern the functioning of the Association. The central body of the Association is CWC (Central Working Committee) and State wise branches are called Circle and District level branches are called District SSA. The above said Circle and District level SSAs were formed solely for the purpose of proper functioning of the Association in the grass root levels. By a letter dated 16.07.2007, the 1st respondent communicated regarding the various facilities granted to the office bearers of SC/ST Employees Welfare Association of BSNL.

2-3.The SC/ST Employees Welfare Association of BSNL represents more than 70 thousand SC/ST Employees of the BSNL throughout India. Elections are held every two years and the office bearers are selected/elected to become CHQ/Circle/District Office bearers of SEWA BSNL. For Tamil Nadu Circle, the elections were held during October, 2012 and the tenure expired on October, 2014. But, the election for Tamil Nadu Circle, SEWA BSNL could not be held within the tenure of the last Circle Body. The respondents 1 & 2 conducted joint meetings of the major two factions of Circle Body on 23.12.2015

at 14.30 hours and minutes of the meeting were drafted and signed by two factions in the presence of 2nd respondent. As per the Minutes, the following decisions were taken_

a)Joint Notification has to be issued to all SEWA BSNL members on today itself ie., 23/12/2013 by Sri R.Chandrasekar and Shri.S.Nagamani.

b)Instructions to be given to DY.LO of all SSAs concerned to co-ordinate with SEWA Office Bearers/Members to conduct the delegates election and the delegates lists to be submitted to LO (SCT) Circle Office, Chennai on or before 12.01.2016.

c)DY.LO of concerned SSAs should follow the by-law of SEWA BSNL and guidelines for election.

d)SEWA co-ordinators were accepted to conduct the election on 20.01.2016 at RGM TTC, Chennai.

e)As per BY-LAW of SEWA BSNL, dual members are not eligible for voting and contesting in the delegate election.

On the same day, an election notification was prepared and it was notified, thereby, fixing the election process from 19.1.2016 to 20.1.2016. It was clearly mentioned in the said notification that the election would be restricted to delegates. The delegates would be elected as per the Bylaws of SEWA BSNL. As per bylaws of SEWA BSNL, for every 20 members, one delegate would be selected/elected.

2-4.A delegate election was to be held on 12.1.2015 at Coimbatore SSA for electing delegates who would represent the Coimbatore SSA. There were serious irregularities in the process and those who filed Nomination were declared to be elected without an election conducted and furthermore, it was disputed in the venue itself and the Observer had specifically observed the occurrences and forwarded a letter in this regard to Election Co-coordinators. Without considering the genuineness of the process of electing Delegates, the 1st respondent herein issued impugned Letter dated 28.1.2016 bearing Ref.No.SCT/SEW BSNL/Delegate List/2015-16/30, including the five delegates who were not at all elected and they only filed nomination which is evident from the Observer letter dated 12.1.2015.

2-5.Apart from the said aspect, Office of Chief Engineer (E) TNEZZ, Chennai, which is an SSA, has a strength of only one member. However, the 1st respondent vide letter dated 18.1.2016 bearing Ref.No.9(1)/2010/CEE/TNEZ/CH/29, declared that

one member has been accepted to participate. Similarly Architectural Wing, TN Circle, Chennai has only two members. It was specifically stated that since the strength is less than 10, the said office is not eligible for delegates vide letter dated 14.1.2016. However, later the 1st respondent suo motu changed its stand and issued letter dated 19.1.2016 wherein, out of two members one was made as a delegate.

2-6. In Thanjavur District SSA, District Officer bearers of SEWA BSNL were not called by the District Liaison Officer to conduct Delegate election and the members of Thanjavur SSA are greatly aggrieved and it has 35 members and not even a single delegate was allowed by the District Liaison Officer. Whereas in respect of Chief Engineer (E) TNEZZ, Chennai, which has only one member, was allowed for that District SSA. Furthermore, as per the Joint Guideline, 12.1.2016 was the last date for conducting delegate election, but the official respondents conducted election on 19.1.2016 against the joint guideline.

2-7. According to the petitioner, the Official Respondents violated the Rules and regulations as stipulated in the SEWA BSNL bylaws and thus, they have encouraged illegal elements who want to get elected by any means. Unqualified and ineligible delegates have been declared as delegates leaving behind genuine members who have been with the SEWA BSNL since its foundation. The impugned letter issued by the 1st respondent is nothing but a flagrant violation of SEWA BSNL bylaws and principles of natural justice. Hence, the petitioner has filed the present writ petition.

3. When the writ petition came up for hearing on 05.02.2016, this Court has passed an interim order, permitting the respondents to conduct the election, however, this Court directed the respondents to keep the results in abeyance till the disposal of the writ petition.

4. Thereafter, the respondents 1 & 2 filed a joint counter affidavit contending that before formation of SC/ST Employees Welfare Association of BSNL, a recommendation of Parliamentary Committee was received vide letter dated 9.2.2004 from Lok Sabha Secretariate. It was requested to form one Association for the welfare of the employees belonging to SC/ST employees in the organization. Accordingly, BSNL recognized one SC/ST Employees Welfare Association of BSNL (SEWA BSNL) vide letter No.71-1/2005-SCT dated 15.03.2007. The Association was set up in various levels ie., SSA (Telecom District) level, Circle (State) level and CHQ (All India) level. Its office-bearers are elected by representatives/delegates for a fixed term of two years ie., every two years. In Tamil Nadu State ie., Tamil Nadu Circle, the last Circle Conference was conducted on 10.10.2012

and the list of elected office-bearers consisting of one Sri.P.Mani as Circle President and one Sri.P.N.Perumal as Circle Secretary and 19 others was approved on 31.10.2012 by the Tamilnadu BSNL Administration. The period of tenure two years commenced on 31.10.2012 and expired on 30.10.2014. In view of the difference of opinions between two factions of SEWA BSNL in Tamilnadu Circle, the 3rd Circle Conference/Election for SEWA BSNL could not be conducted by the Association. The respondents have taken all efforts to amicably settle the issues of two factions in the larger interest of SC/ST Employees of BSNL, Tamilnadu Circle. With great difficulties, a co-ordination meeting was arranged by the Circle Administration in the chamber of Liaison Officer (SCT) on 23.12.2015, with three members from each faction and two Circle Joint Election Co-ordinators (one from each group) were nominated by them for co-ordination and arrangements for conduction of Circle Conference/Election of SEWA BSNL and they arrived at a consensus and accordingly, Joint Notification was issued by both Joint Election Co-ordinators stating that the conference/election to be conducted on 20.01.2016. In the same notification, the last date for submission of delegates list was stipulated as 12.01.2016. The delegates lists were not submitted by some of the SSAs within the time limit ie., on or before 12.01.2016 as prescribed by the Circle Administration. Hence, they were given some more time and were asked to submit the delegates list at the earlier within a few days. No prejudice has been caused to the writ petitioner by the submission of delegates list after 12.01.2016. Further, the writ petitioner has not challenged any of the elected delegates list till now. The delegates lists received from all the Deputy Liaison Officers (in short DLO) of the SSAs were consolidated and arrangements were made to convey the Joint Election Co-ordinators on 28.01.2016 with a copy to the Chief LO (SCT). It is further stated by the respondents 2 & 3 that at present, the petitioner is not holding the post of President of SEWA BSNL of Thanjavur SSA. The Bylaws of SEWA BSNL and guidelines for election were strictly followed. In all the SSAs, delegates were elected as per bylaws of SEWA BSNL and the Revised Code of Conduct & Guidelines issued jointly by both the Joint Election Co-ordinators. As per clause 15 of the Revised Code of Conduct issued jointly by both the Joint Election Co-ordinators, the DLOs of Cuddalore SSA, Electrical and Architect ensured a minimum of one delegate irrespective of number of membership. As per the direction of the Chief Liaison Officer (SCT), BSNL Corporate Office, New Delhi and as per the decision of the chief General Manager, BSNL, Tamilnadu Circle, the Liaison Officer (SCT), Tamilnadu Circle requested both the Joint Election Co-ordinators to conduct election on 06.02.2016 and all administrative supports were extended as per bylaws of SEWA BSNL and guidelines for election and the timing and other particulars communicated to both the Joint Election Co-ordinators. The election was conducted on 06.02.2016 at RGM

TTC between 10.00 and 19.00 hours and all the delegates as per the Delegates Lists of DLOs exercised their choice. The election was conducted in a fair, free and democratic manner. It is further stated by the respondents 2 & 3 that the petitioner has not challenged the Original Election Notification and he has challenged the consequential notification dated 28.01.2016 and as such, the writ petition is liable to be dismissed in limine. Thus, the respondents 2 & 3 sought for dismissal of the writ petition.

4.The 3rd respondent has also filed a counter opposing the prayer sought for by the petitioner, stating that the petitioner is not a member of the SEWA BSNL and only a members of the SEWA BSNL alone can challenge the impugned order; as such, the present writ petition is not maintainable.

5.It is the only contention of the learned counsel for the petitioner that there are lot of irregularities in the election conducted for the delegates of the Secondary Switching Areas (SSAs). When that being so, the election for Circle Office cannot be conducted. Further, since in the counter affidavit filed by the respondents it was disputed that the petitioner is not a member of the SEWA BSNL, the learned counsel for the petitioner made a detailed submission by inviting the attention of this Court to various documents, to the effect that he is a member of the SEWA BSNL and as such, he has locus standi to file the present writ petition.

6.The learned counsel for the respondents denied the submissions made by the learned counsel for the petitioner and he is a member of SEWA BSNL. It is further contended by the learned counsel for the respondents that though it is alleged by the petitioner that there are lot of irregularities in the election conducted by the delegates of SSAs, the petitioner has not chosen to challenge the election of the delegates of SSAs; under such circumstances, the present writ petition filed by the petitioner challenging the election for the Circle Office, is not maintainable.

7.Keeping the submissions made on either side, I have carefully gone through the materials available on record.

8.The present writ petition has been filed by the petitioner alleging that there are lot of irregularities in the election conducted for the delegates of SSAs and ineligible members have been declared as delegates and that since there are lot of irregularities in the election for the delegates of SSAs, the election for the Circle Office cannot be conducted. But, in my considered opinion, when the petitioner has not chosen to challenge the election of delegates of SSAs, now he cannot challenge the election to be conducted for the Circle Office.

Furthermore, after issuance of the notification for the election of the Circle Office, the petitioner cannot challenge the same. The present writ petition has been filed by the petitioner only with bald and vague allegations, without producing any substantial materials to prove the same. There is no merit in the writ petition and the same is liable to be dismissed.

In fine, the writ petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

ssv

s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

To

1. The Chief General Manager,
BSNL, Tamil Nadu Circle,
16, Greams Road,
Chennai-6.

2. The Laision Officer,
BSNL, Tamilnadu Circle,
16, Greams Road,
Chennai-6.

+ 1 cc to Mr.K.R.Rameshkumar, Advocate SR 9462

+ 1 cc to Mr.R.S.Anandan, Advocate SR 9466

+ 1 CC TO M/S.R.RAJESH KUMAR, ADVOCATE SR 9791 (15/3/16)

ppa (co)
prk16/2

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W.P.No.4312 of 2016
and

W.M.P.No.3654 of 2016

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