

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 13409 of 2016 (O&M)

Date of decision: 19.07.2016

S.A.T.L. Employees Union and another

....Petitioners

Versus

State of Haryana and others

.... Respondents

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Jamal Khan, Advocate for the petitioners.

P.B. Bajanthri, J.

In this petition, petitioners have sought for quashing the impugned orders sated 14.03.2016 and 07.04.2016 passed by respondent No.1 and further sought direction to respondents No.1 to 3 to hold an election of the M/s Shivam Auto Tech Ltd. Employees Union (for short referred as 'Union') under secret voting to ensure free and fair election of the Union in order to protect the right of the members of the Union.

2) Petitioner No.1 is represented by Sh.Suman Kumar-President and petitioner No.2 is represented by Sh. Mukesh Kumar-General Secretary

and 5th and 6th respondents are members of the Union. In the year 2015-16, there is some dispute among the members of the Union. In view of the difference of opinion among the members of the Union, one group held election and occupying the office bearers' post. The other group is objecting that holding of election and elected office bearers are not in accordance with bye-laws. In this regard, petitioners have approached the Labour Commissioner. The Labour Commissioner after due examination of resolutions and events relating to holding of election of the Union, has come to the conclusion that there are serious disputes between the two group of Union members. Therefore, the Labour Commissioner is of the opinion that since there is disputed issues among two group in the Union is available on record, therefore, request of the petitioners for holding election or for re-holding of election of the Union is impermissible unless and until disputed issues are resolved before appropriate forum. Dispute among the two group of the members of the Union cannot be resolved by the Labour Commissioner. It is to be resolved through civil Court. The civil Court has the jurisdiction to decide the controversy involved in the present case. Accordingly, grievance of the petitioners turned down by the Labour Commissioner vide Annexures P1 and P2 .

3) Feeling aggrieved by the decision of the Labour Commissioner, the present writ petition has been filed.

4) Learned counsel for the petitioner submitted that petitioners' group has a strength of more than 2/3rd as required under the bye-laws. Therefore, petitioners have made out a case before the Labour Commissioner for holding election or re-holding election. Therefore, the

impugned communications of the Labour Commissioner (Annexures P1 and P2) are liable to be set aside and further a direction be issued to respondents No. 1 to 3 to hold election or to re-hold election.

5) Heard learned counsel for the petitioners.

6) It is undisputed that Union members consists of 408 in number.

Perusal of the various Annexures attached to writ petition, it is evident that there is a dispute among the members of the Union which is divided into two group. The present petitioners have stated that respondents No.5 and 6 have manipulated in holding election and occupying the office bearers' post with the support of the Management. On the other hand, other group is disputing that the presence of 150 members-2/3rd quorum of the meeting is not fulfilled and signature obtained among the members of the Union are not genuine. Thus two groups are fighting against each other. Petitioners' group wanted election to be held. The other group do not wish to hold a fresh election and they want that an elected committee should be continued since there is no proposal or oppose to dissolve the present committee of the Union. In the previous General Body Meeting it was not at all discussed or date of election is fixed etc. It was also held that some of the self-styled leaders/officials of the Union are pressing hard to get signature on blank papers from the members/workers to achieve the mala fide intention for not to hold election of the Union.

7) In view of these various disputes among Union members, the Labour Commissioner has rightly held that he has no jurisdiction to direct or to hold election or to re-hold the election of the Union. Dispute can be resolved by invoking civil Court jurisdiction only.

8) In view of the above discussion, the petitioners have not made out a case so as to quash the communication vide Annexures P1 and P2 are in order. CWP is rejected.

9) No order as to costs.

July 19th, 2016

pooja saini

(P.B.BAJANTHRI)
JUDGE