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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 545/2016 & CM No.2213/2016 (for stay)
RAIL MAZDOOR UNION Petitioner
Through: Mr. Rohit Gupta, Adv.

Versus

THE CHAIRMAN, RAILWAY BOARD & ORS Respondents
Through: Mr. Jagjit Singh & Mr. Pranav
Agrawal, Advs.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW
ORDER
% **16.02.2016**

1. The petition seeks a declaration that the result dated 2nd May, 2013 of the election held on 25th to 27th April, 2013 for recognizing the union of railway mazdoors and in pursuance where to the respondent no.5 Northern Railway Men's Union (NRMU) and respondent no.6 Uttariya Railway Mazdoor Union (URMU) were recognized, as null and void. The petition also seeks a declaration disqualifying the said respondents from being recognized as a trade union of railway mazdoors to represent the mazdoors with the management of the respondents no.1&2 Northern Railways.
2. The petition came up first before this Court on 22nd January, 2016 when it was adjourned on the request of the counsel for the petitioner. On 2nd February, 2016, the counsel for the respondents no.1&2 Northern Railways appearing on advance notice stated that with respect to the same election as impugned in this petition, earlier also a writ petition as well as a suit were filed and were dismissed and which facts have been concealed

from this petition.

3. The matter was adjourned to enable the counsel for the respondents to produce the particulars thereof.

4. On the next date i.e. 8th February, 2016, the counsel for the respondents handed over a copy of the order dated 24th September, 2012 of dismissal of W.P.(C) No.1483/2012 filed by the petitioner and the matter was adjourned to today to enable the counsel for the petitioner to obtain instructions.

5. The counsel for the petitioner has today in Court handed over a copy of W.P.(C) No.1483/2012 and which is taken on record and states that the relief claimed therein was different from the relief claimed in the present petition.

6. In this view of the matter, the counsel for the petitioner has been heard on merits.

7. It is the contention of the petitioner that:

- (i) As per the modalities prescribed for the election, each contesting union was required to enclose a No Dues Certificate (NOC) of having paid all charges on account of office rent, electricity, telephone and water till 31st December, 2012 of all premises of the Railways occupied by the said union; it was further provided that if there is any dispute about the charges and bills to be paid by the union or in the case of inability of the Railways to raise the bills in time, the contesting union will furnish an undertaking to the Railway Administration that the bill after settlement of disputes / raising of the bills will be paid latest by 31st December, 2013;

- (ii) The nomination form prescribed also required the contesting union to furnish an NOC or a Certificate of General Manager in the prescribed form containing the undertaking aforesaid and it was provided therein also that in the event of the same being found incorrect, the competent authority shall be free to take appropriate action disqualifying the union from contesting the election;
- (iii) The petitioner now in pursuance to a query under the Right to Information Act, 2005 has been furnished copy of two letters dated 13th November, 2014 issued by the respondents no.1&2 Northern Railways to the respondents no.5&6 Unions who were declared elected and which letters indicates that both the Unions are in arrears of office rent, electricity and water charges for the period till 31st December, 2013;
- (iv) Since the respondents no.5&6 Union who have been elected are in arrears as aforesaid, their election should be set aside because their nomination stands cancelled as per the modalities aforesaid.

8. I am unable to find any merit in the aforesaid case of the petitioner. It cannot be lost sight of that the respondents no.5&6 Unions already, pursuant to the election, stand recognized. Their said recognition by the respondents no.1&2 Northern Railways as Unions representing the workers / mazdoors of the Northern Railways cannot be set aside on the basis of the non payment even if any by the said unions of the charges aforesaid due

from them. The modalities aforesaid were only to ensure that the payments due from the contesting unions were recovered before they contest the election and cannot constitute a ground for setting aside of the election, the result whereof has already been declared. All that the said modalities provided was that in the event of the NOC or the undertaking as the case may be being not furnished, the contesting union would not be entitled to contest the election. It was not a condition of recognition that the contesting union will continue to pay the charges due from it, else will lose the recognition. The condition of disqualification for contesting an election cannot be a condition for setting aside the election in the absence of any specific provision. If the same were to be done, no election would ever attain finality and repeated elections would have to be held.

9. There is thus no merit in the petition.

10. Dismissed.

11. However, it is clarified that dismissal of this petition would not come in the way of the respondents no.1&2 Northern Railways from taking appropriate proceedings in accordance with law for recovery of their dues if any.

No costs.

RAJIV SAHAI ENDLAW, J

FEBRUARY 16, 2016

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