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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 1261/2012 & CM No.2741/2012 (for stay)**

S.K.NAG AND ORS

..... Petitioners

Through: Mr. Sachin Chopra and Mr. Shubhnit
Hans, Advs.

Versus

CENTAUR HOTEL EMPLOYEES UNION

AND ORS

..... Respondents

Through: Mr. Umesh Sharma, Adv. for R-1 with
Mr. Kulanand Devrani, Chairman of
R-1.

Ms. Gunjan Singh Jain and Mr.
Mukesh Verma, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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20.01.2016

1. This order is in continuation of yesterday's order.
2. Inspite of passover none has appeared for the respondent No.1 Centaur Hotel Employees Union.
3. The counsel for the respondent No.2 Centaur Hotel states that as per the records of the respondent No.2, the last elections were held in the year 2004 and no elections have been held thereafter; it is clarified that no elections were held in July, 2015, as was contended by the counsel for the respondent No.1 Union yesterday.

4. It is evident that the statement made by the counsel for the respondent No.1 Union yesterday under instructions from Mr. Kulanand Devrani, Chairman of the respondent No.1 Union that elections of the office bearers of the respondent No.1 were last held in July, 2015, was false. It is perhaps to avoid consequence of practising falsehood before the Court that the counsel for the respondent No.1 as well as Mr. Kulanand Devrani have not appeared today before the Court.

5. At this stage, the counsel for the respondent No.1 Union has appeared and to show that elections were indeed held in July, 2015, as was the stand yesterday, has handed over photocopies of three documents namely, the letter dated 20th April, 2015 of the respondent No.1 Union to the respondent No.2, the letter dated 28th April, 2015 of the respondent No.2 to the respondent No.1 Union and the letter dated 27th April, 2015 of the respondent No.1 Union to the State Bank of India (SBI). However, neither of the three documents refers to any election having been held in July, 2015. The said letters in fact are of prior to July, 2015 and only pertain to the request of the respondent No.1 Union to the respondent No.2 to record the

names of certain workmen as protected workmen and a request to the SBI to allow the persons mentioned therein to operate the bank account of the respondent No.1 Union.

6. Faced therewith, the counsel for the respondent No.1 Union states that it was wrongly communicated yesterday that the elections were last held in July, 2015. It is stated that the elections were last held in July, 2014 and on enquiry, it is stated that the term of the persons so elected is of two years.

7. Though it is contended by the counsel for the petitioners that the term of the office bearers is prescribed in the constitution of the respondent No.1 Union in Clause 12 as of one year but need to go into the said aspect is not felt, as it is evident that the stand taken by the respondent No.1 Union of having held the elections either in July, 2015 or in July, 2014, is not established.

8. Thus, the petition to the extent pressed by the petitioners has to be allowed and a direction for holding the elections of the respondent No.1 Union has to be issued.

9. This Court in *H.C. Dhyani Vs. Registrar of Trade Union* MANU/DE/0759/2010 has held that a direction can be issued to the respondent No.3 Registrar of Trade Union to direct the Union to hold the

election.

10. Though the counsel for the respondent No.1 Union has handed over copies of judgments in *Ideal Jawa Employees Association Vs. Umesh* ILR 1985 KAR 1080, *Unit Prasad Singh Vs. The State of Jharkhand* 2007 (1) JCR 194 Jhr. and judgment dated 27th July, 2011 of Jharkhand High Court in W.P.(L) No.1330 of 2011 titled *U.M.B. Mazdoor Sangh Vs. The State of Jharkhand* to contend that no writ lies against a registered Trade Union for holding of elections but in the light of the aforesaid judgment of this Court in *H.C. Dhyani*, the judgments cited by the counsel for the respondent No.1 Union are of no avail.

11. Accordingly, the petition is disposed of with the following directions:

(I) The respondent No.1 Union is directed to hold the elections of its office bearers and announce the result thereof on or before 15th March, 2016;

(II) The respondent No.3 Registrar of Trade Union is directed to ensure that the elections are so held of the office bearers of the respondent No.1 Union within the time aforesaid;

(III) The petitioners shall be entitled to apply to the respondent No.3 Registrar of Trade Union to designate an officer/person to supervise the holding of the said elections and the respondent No.3 Registrar of Trade Union, if satisfied with a case therefor being made out, shall do the needful.

12. The counsel for the respondent No.1 Union states that the respondent No.3 Registrar of Trade Union can be directed to appoint an observer.

13. The respondent No.3 Registrar of Trade Union is accordingly further directed to, within one week of communication of this order, appoint an observer to conduct the elections of the office bearers of the respondent No.1 Union.

No costs.

RAJIV SAHAI ENDLAW, J.

JANUARY 20, 2016

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