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

+ W.P.(C) 1437/2015, CM Nos.2811/2016 (for placing on record additional documents), 2526/2015 (for stay) & 8431/2015 (for directions / clarifications)

ALL INDIA PUNJAB NATIONAL BANK

SCHEDULED CASTE & SCHEDULED

TRIBE EMPLOYEES WELFARE ASSOCIATION Petitioner

Through: Mr. V.K. Garg, Sr. Adv. with Mr.
Surya Nath Pandey & Ms. Noopur
Dubey, Advs.

Versus

THE STATE (NCT OF DELHI) & ORS Respondents

Through: Mr. Naushad Ahmed Khan, Adv. for
R-1.
Mr. Jagat Arora & Mr. Rajat Arora,
Advs. for R-2&3.
Mr. Ashok Bhalla, Adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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27.01.2016

1. The petition i) impugns the order dated 7th January, 2015 of the Registrar of Societies of the respondent no.1 Government of NCT of Delhi (GNCTD) declaring that the association in the name of “All India Punjab National Bank Schedule Caste and Scheduled Tribe Employees Welfare Association (AIPNBSC&STEW)” having its office at C-77, Double Storey Quarters, Idgah Road, Delhi-110 006 and also at PNB, Bank Street, Karol Bagh, New Delhi-110 005 and having registration No.S/510/2013 dated 22nd July, 2013 is the genuine association as per the records of the office of the

Registrar of Societies and Sh. Rajindra Kumar is the President and Sh. Mohan Lal is the General Secretary of the said association; ii) impugns the consequential order dated 30th January, 2015 of the respondents no.2&3 Punjab National Bank (PNB), to hold quarterly meeting with the association of which Sh. Mohan Lal is the General Secretary; and, iii) seeks to restrain the respondents no.2&3 PNB and respondent no.4 All India Punjab National Bank Scheduled Caste & Schedule Tribe Employee Welfare Association (AIPNBSC&STEWA) from conducting any business activities in respect of the association registered vide No.8350 dated 25th November, 1976 having bank account No.0629000200157253 in New Rajinder Nagar Branch, New Delhi.

2. Vide *ad interim* order dated 13th February, 2015, while issuing notice of the petition, the respondent no.4 AIPNBSC&STEWA was restrained from operating bank account No.0629000200157253 maintained with the New Rajinder Nagar Branch, New Delhi of PNB. Counter affidavits have been filed by the respondents no.1,4,2&3 and rejoinder has been filed to the counter affidavit of the respondent no.4 AIPNBSC&STEWA. The counsels have been heard.

3. The senior counsel for the petitioner has argued:

- (i) That the Scheduled Caste and Scheduled Tribe employees of PNB had as far as in the year 1976 formed an association for their welfare and the said association was registered as a society vide registration No.8350 on 25th November, 1976 in the name and style of “Punjab National Bank Scheduled Caste & Scheduled Tribe Employees Welfare Association”;
- (ii) That however the said association in the year 1988 decided to

have its name changed from that of Punjab National Bank Scheduled Caste & Scheduled Tribe Employees Welfare Association to “All India Punjab National Bank Scheduled Caste & Scheduled Tribe Employee Welfare Association” (All India PNBSC&STEWA) and an application therefor was also moved with the Registrar of Societies but no action has been taken thereon till now;

- (iii) That the said association in the year 1989 also opened the account aforesaid in which the subscription of all the members was being deposited;
- (iv) That the respondent no.4 AIPNBSC&STEWA was got registered as a society on 22nd July, 2013 and started staking its claim to the amount of over Rs.1 crore accumulated in the aforesaid account;
- (v) That the respondent no.4 AIPNBSC&STEWA also obtained the impugned order dated 7th January, 2015 from the Registrar of Societies and on the basis whereof the respondents no.2&3 PNB vide impugned order dated 30th January, 2015 have decided to deal with the respondent no.4 AIPNBSC&STEWA only.

4. Per contra, the counsel for the respondent no.4 AIPNBSC&STEWA has argued:

- (a) That the respondent no.4 AIPNBSC&STEWA is nothing but the same association which was registered way back in the year 1976;
- (b) That upon the name of the society registered in 1976 being not

changed as aforesaid and it being advised to instead form and register an association as society in the name of AIPNBSC&STEWA, the respondent no.4 AIPNBSC&STEWA was got registered on 22nd July, 2013 and the amounts collected in the aforesaid account being the subscription of the members of the respondent no.4 AIPNBSC&STEWA, the respondent no.4 AIPNBSC&STEWA is entitled to operate the said account and to represent the Scheduled Caste and Scheduled Tribe employees vis-a-vis the respondents no.2&3 PNB.

5. Needless to state that both counsels have relied on several documents in support of their respective claims.

6. The senior counsel for the petitioner in rejoinder has contended that it is not the case of the respondent no.4 AIPNBSC&STEWA in its counter affidavit before this Court that it is a continuation of the 1976 association and it is rather the plea of the respondent no.4 AIPNBSC&STEWA in the counter affidavit that it is the new association.

7. The counsel for the respondent no.2&3 PNB states that it is dealing with the respondent no.4 AIPNBSC&STEWA on the basis of the order dated 7th January, 2015 of the Registrar of Societies. On enquiry whether not in the event of two different associations laying claim to represent the employees, the respondent no.2&3 PNB is required to determine as to which of them represent the majority of the employees, the counsel for the respondents no.2&3 PNB though agrees but states that there is no procedure prescribed therefor in the respondents no.2&3 PNB.

8. It is also the contention of the senior counsel for the petitioner that the petitioner association had in the meeting of the General Body held on 29th

April, 2007 resolved not to allow retired employees to be elected as the office bearers of the association and that is the genesis for the dispute inasmuch as the office bearers of the respondent no.4 AIPNBSC&STEWA are the retired employees and not the serving employees of the respondents no.2&3 PNB.

9. The counsel for the respondent no.4 AIPNBSC&STEWA controverts and rather contends that the petition raises disputed questions of fact and which can be adjudicated only in a suit. He contends that no such resolution was passed in the meeting of the General Body in the year 2007.

10. The counsel for the respondents no.2&3 PNB on further enquiry whether not it is in the interest of the respondents no.2&3 PNB to deal with employees association through office bearers who are still in employment rather than with retired employees though agrees but states that the constitution of the association provides for retired employees also to be elected as office bearers and since the respondents no.2&3 PNB is to deal with the association through its office bearers, has to deal with the retired employees.

11. I am of the view that even if the constitution of the association permits the retired employees of the respondents no.2&3 PNB also to be members and office bearers thereof, the same is not binding on the respondents no.2&3 PNB and the respondents no.2&3 PNB if so deems appropriate and beneficial can always insist upon dealing with an association through office bearers who are still in employment of the respondents no.2&3 PNB and not with those who are left with no stake vis-a-vis bank save qua pensionary benefits etc. if any.

12. I have considered the rival contentions and though I am in agreement

with the counsel for the respondent no.4 AIPNBSC&STEWA that the writ petition is not the appropriate remedy for the disputes as have arisen but I am further of the opinion that there is no need to relegate the parties to a lengthy civil suit.

13. The whole purpose of forming an association, is to deal with the respondents no.2&3 PNB for the welfare of the Scheduled Caste and Scheduled Tribe employees of the respondents no.2&3 PNB. The money accumulated in the aforesaid accounts is also not belonging to any particular office bearer but belongs to the Scheduled Caste and Scheduled Tribe employees of the bank.

14. I am of the view that the respondents no.2&3 PNB when faced with such a situation ought to direct holding of an election to determine which of the two associations i.e. the one registered in the year 1976 or the other registered in the year 2013 represent the majority of the Scheduled Caste and Scheduled Tribe employees and to only thereafter deal with either of them. Neither of the two associations is registered with the Registrar of Trade Unions for a direction to be issued to the Registrar of Trade Unions to hold an election in this regard. If the respondents no.2&3 PNB does not agree to hold such an election under its aegis, the parties will necessarily have to go to the Civil Court for devising a procedure for determining which of them represents the majority of the Scheduled Caste and Scheduled Tribe employees of the respondents no.2&3 PNB.

15. In the circumstances, the petition is disposed of with the following directions:

- (i) the respondents no.2&3 PNB to within one month of today take a decision whether it is willing to, while dealing with an

association of Scheduled Caste and Scheduled Tribe employees, deal with office bearers of such an association who are retired or desires to deal with those office bearers only who are still serving the respondents no.2&3 PNB and to communicate the said decision to the petitioner as well as the respondent no.4 AIPNBSC&STEWA;

- (ii) the respondents no.2&3 PNB to within three months lay down the procedure for holding of an election on all India basis to determine which of the two i.e. whether the petitioner or the respondent no.4 AIPNBSC&STEWA have the allegiance of maximum number of Scheduled Caste and Scheduled Tribe employees of the respondents no.2&3 PNB;
- (iii) the respondents no.2&3 PNB to hold election within a further period of three months;
- (iv) it is clarified that the petitioner shall hereafter describe itself as All India PNBSC&STEWA (registered vide No.8350 dated 25th November, 1976) and the respondent no.4 AIPNBSC&STEWA shall hereafter describe itself as AIPNBSC&STEWA (registered vide No.S/510/2013 dated 22nd July, 2013) and shall contest the election also in the said name only;
- (v) the monies lying deposited in the bank account aforesaid shall be kept in a maximum interest bearing fixed deposit for a period of one year and the said account shall be operated by the office bearers of whichever of the two associations is found to have the allegiance of maximum number of Scheduled Caste and Scheduled Tribe employees of the respondents no.2&3

PNB;

- (vi) Whichsoever association is found to be having the allegiance of majority of the Scheduled Caste and Scheduled Tribe employees shall be the association which shall represent the affairs of the Scheduled Caste and Scheduled Tribe employees of the respondent no.2&3 PNB and vis-a-vis the management of the respondents no.2&3 PNB.

No costs.

RAJIV SAHAI ENDLAW, J

JANUARY 27, 2016
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