

CWP No.12712 of 2015

[1]

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

**CWP No.12712 of 2015
Date of decision:18.09.2017**

Bassi Mubarakpur Truck Operators Union, Dera Bassi ...Petitioner

Versus

The Deputy Commissioner and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Gulshan Sharma, Advocate,
for the petitioner.

Mr. Saurav Khurana, DAG, Punjab.

Mr. Aman Pal, Advocate,
for respondents nos.5 to 12.

Rakesh Kumar Jain, J.

The petitioner is seeking a writ in the nature of *certiorari* for quashing the certificate of registration dated 18.06.2015 issued by the Registrar, Firms and Societies, Punjab, on the ground that already a certificate of registration dated 29.05.2015 has been issued by him in favour of the petitioner submitted through its elected body.

The petitioner, namely, Bassi Mubarakpur Truck Operators Union, Dera Bassi (hereinafter referred to as the "petitioner-union") is registered with the Registrar, Firms and Societies, Punjab vide registration No.KC-753/1987-88 dated 25.03.1988. The petitioner-union filed CWP No.16447 of 2012, *inter alia*, for refund of the TDS amount received from the Income Tax Department, to bring an elected body for transparency as the elections of the truck union had not taken place since 2004, for a high level

enquiry with regard to the embezzlement of truck union's money and for bringing the guilty persons to the books. The said writ petition was disposed of by a Single Bench of this Court on 27.08.2012 with the following order:-

“The grievance of the petitioners that respondent no.4 has misappropriated the funds of the Union is difficult to appreciate in the exercise of jurisdiction under Article 226/227 of the Constitution of India. However, keeping in view the fact that a representation has been made to respondents No.2 and 3, I deem it appropriate to dispose of the instant writ petition with a direction to the said respondents to consider and decide the claim of the petitioners as contained in Annexure P-1 as expeditiously as possible, preferably within a period of three months from the date of receipt of a certified copy of the order.”

Since the direction contained in the order dated 27.08.2012 was allegedly not complied with, therefore, the petitioner-union filed COCP No.695 of 2013, in which the Deputy Commissioner, SAS Nagar and SDM, Dera Bassi filed their reply to the effect that they would conduct the elections of the petitioner-union and also the TDS would be deposited in a separate account. It is alleged that pursuant to the aforesaid proceedings, election of the petitioner-union was held on 15.06.2013, in which Baldev Singh, who has filed the present writ petition on behalf of the petitioner-union, was elected as the President. It is also alleged that some of the disgruntled elements of the petitioner-union made a representation to respondent no.3, who summoned the petitioner-union vide letter dated 02.03.2015, to which a detailed reply was filed on 06.03.2015 explaining that after the election was held on 15.06.2013, the amended bye-laws were got registered with respondent no.3. It is also alleged that the petitioner-union was apprehending that the persons, who are responsible for not letting the elections take place for several years, have now

become active again under the political protection and in order to avoid toppling of the elected body, they filed CWP No.9719 of 2015 but the said writ petition was dismissed on 15.05.2015, with the following order:-

“Petitioner has approached this Court alleging that the elections to the Management of Bassi Mubarakpur Truck Operators Union, Dera Bassi, be not conducted till the expire of the term of the present Management. The apprehension of the petitioner is that the elections to the petitioner-Union would be held against the bye-laws of the petitioner-Union, according to which, the term of the Management is for three years which is to expire on 15.06.2016 as the elections were last held on 15.06.2013. This apprehension of the petitioner is based upon the communication dated 02.03.2015 (Annexure P-4) addressed to Baldev Singh, the President of the petitioner-Union.

Perusal of the same would indicate that some letter dated 06.02.2015 has been received for amending the constitution of the Truck Union of Bassi Mubarakpur Truck Operators Union, Zirakpur, alongwith the documents of the members of the Union from Sh. Kulbir Singh and others for placing the same on record. Petitioner has been called upon to respond to the same and submit the claim to the Registrar, Firms & Societies, Punjab, within a period of 7 days. In response to the said communication, reply has been submitted by the petitioner dated 06.03.2015 (Annexure P-5). Till date, no order on the communication/letter dated 06.02.2015 received by the Registrar, Firms & Societies, Punjab, from Sh. Kulbir Singh and others, has been taken. Petitioner, therefore, as of now, has no cause of action till a decision is taken by the Registrar, Firms & Societies, Punjab.

The present writ petition being premature at this stage cannot be entertained and is dismissed especially when there is nothing on record to suggest that the elections to the petitioner-Union is being contemplated or the election programme has been circulated/finalized.”

The grievance of the petitioner is that respondent no.3 has issued certificate of registration on 18.06.2015 on the basis of the list of members

submitted by a self-styled President, without any election and, thus, prayer has been made in this petition for quashing of the said certificate of registration dated 18.06.2015.

After notice, separate replies have been filed by respondents no.1, 2 and 3. Respondent no.3 has averred that he has not issued any certificate of registration to anyone after 25.03.1988 when the petitioner-union was initially registered. The petitioner-union has referred to the receipts issued on the submission of the list of the members as registration certificates dated 12.07.2013, 29.05.2015 and 18.06.2015, which are only the certificate of filing in Form-II and not the certificate of registration. The registration of the petitioner-union is intact at the same no.753.

During the course of hearing, counsel for the petitioner was specifically asked by this Court as to whether there is any remedy under the Societies Registration Act, 1860 to challenge the impugned order, to which he has submitted that there is no such remedy of appeal or revision.

I have heard learned counsel for the parties and examined the available record with their able assistance.

The basic prayer of the petitioner-union is for quashing the certificate of registration dated 18.06.2015. It appears that there is a misconception in the mind of the petitioner about the certificate of registration because the registration bearing no.KC-753/1987-88 has been issued in favour of the petitioner-union on 25.03.1988. The said number of registration is still intact and has not undergone any change. All that has been done in the past when the certificate of filing was issued on 29.05.2015 to the petitioner-union is that respondent no.3 only acknowledged the list of members for the year

2015-16 and while issuing the certificate of filing on 18.06.2015, respondent no.3 had acknowledged the list of members of the Executive Committee for the year 2015-16 and the amended memorandum and Rules & Regulations of the Society, which has been challenged.

Thus, the dispute is not with regard to issuance of the new registration number by respondent no.3 rather the dispute is about the submission of list of members of another union, which is not being recognized by the petitioner-union, which is headed by Baldev Singh. In such circumstances, the remedy does not lie in filing of the present writ petition rather the remedy would lie by way of filing the civil suit.

I have also found that already a civil suit is pending regarding misappropriation of the funds of the petitioner-union of the previous years, as has been mentioned in para no.12 of the writ petition, therefore, in my considered opinion, the present writ petition is totally misconceived as registration number has not been changed at the instance of the private respondents because the registration number, initially issued to the petitioner-union in the year 1988, is still intact.

Consequently, the present writ petition is hereby dismissed being denuded of any merit, though without any order as to costs.

September 18, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No