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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) No.1084/2011
MANGE RAM SHARMA Petitioner

Through: Mr. Deepak Tyagi, Adv.

Versus

CH. SARUP SINGH & ORS Respondents

Through: Mr. Junaid Nahvi, Adv. for MTNL.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **06.07.2017**

1. This petition under Article 227 of the Constitution of India has been filed impugning the orders dated 10th August, 2011 and 29th August, 2011 of the Civil Judge in a suit filed by the petitioner / plaintiff against the respondents / defendants namely (i) Ch. Sarup Singh, General Secretary; (ii) MTNL Staff Union Class (III & IV) and, (iii) Mahanagar Telephone Nigam Limited (MTNL) (i) for declaring the meeting held on 14th May, 2009 of the Central Working Committee of the respondent no.2 MTNL Staff Union Class (III & IV) as null and void; (ii) for direction to the respondent no.2 MTNL Staff Union Class (III & IV) to restore the membership of the petitioner / plaintiff; (iii) for declaration that the purported resignation of the petitioner/plaintiff is null and void; (iv) for direction to Registrar, Trade Union and Deputy Registrar, Govt. of NCT of Delhi to direct MTNL Staff Union Class (III & IV) & Sh. Sarup Singh to hold internal elections of MTNL Staff Uion Class (III & IV) by such ballet at the earliest; and, (v) for rendition of accounts.

2. Vide impugned order dated 10th August, 2011, with the consent of the parties, election of the office bearers of the respondent no.2 Union was directed to be held. Vide impugned order dated 29th August, 2011 the objections of the petitioner / plaintiff to the result of the election were dismissed.

3. The grievance of the petitioner / plaintiff with respect to the order dated 10th August, 2011 is that the learned Civil Judge directed the election to be held / conducted “as far as possible” as per the Constitution of the respondent no.2 Union.

4. The counsel for the petitioner / plaintiff states that the election has to be held strictly as per the terms of the Constitution of the respondent no.2 Union and the learned Civil Judge erred in directing election to be conducted only “as far as possible” in accordance with the said Constitution.

5. With respect to the order dated 29th August, 2011, the grievance of the petitioner is that his objections to the outcome of the election held under the direction of the Court have been wrongly dismissed and in fact no elections in terms of the Constitution were held in pursuance to the said directions.

6. The petition was entertained and notice thereof issued. The petition has now been pending before this Court for the last nearly six years.

7. Today, only the counsel for the respondent no.3 MTNL which has no direct concern with the controversy appears and none appears for the respondents no.1&2.

8. The counsel for the petitioner / plaintiff on enquiry as to the status of the suit states that owing to the pendency of the present petition no

proceedings are taking place in the suit and the same is being simply adjourned.

9. I have next enquired from the counsel for the petitioner / plaintiff the periodicity with which the elections of the respondent No.2 Union are to be held.

10. The counsel for the petitioner / plaintiff states that the elections are to be held once every two years and no elections have been held since the purported election in pursuance to the impugned order dated 10th August, 2011. He also states that in fact the persons who claimed to have been elected in the election in pursuance to the order dated 10th August, 2011 had contacted him a few days back with a proposal for conducting fresh election.

11. I am of the view that with the passage of time the challenge to the orders has lost its sheen and no purpose will be served in adjudicating the petition on merits inasmuch as if the elections as required to be held under the Constitution of the respondent no.2 Union once in every two years have not been held, the only relief which can be granted in the suit is of elections to be held.

12. Though the said relief could have been granted by this Court only but since this Court is exercising a supervisory jurisdiction only with respect to the orders impugned before it and the suit is not before this Court it is deemed appropriate to dispose of this petition with liberty to the petitioner / plaintiff to approach the Suit Court for a direction for holding of fresh elections and which request of the petitioner / plaintiff be considered in accordance with law by the Court and the suit be disposed of in terms thereof.

13. The counsel for the petitioner / plaintiff at this stage states that the relief of rendition of accounts would survive.

14. It is up to the Trial Court to consider the said request.

15. The petition is disposed of.

No costs.

RAJIV SAHAI ENDLAW, J.

JULY 06, 2017

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