

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9092 of 2018

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Sanjay Kumar Singh Son of Balister Singh Resident of Village- Arak, District-
Buxar, Pin- 802111.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Labour
Recourse, Government of Bihar, Patna.
2. The Commissioner-Cum-Registrar, Department of Labour Resource,
Government of Bihar, Patna.
3. The Deputy Registrar, Labour Unions, Department of Labour Resource,
Government of Bihar, Patna
4. The Deputy Labour Commissioner, Patna Commissioner, Patna.
5. The Labour Superintendent, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madan Prasad Singh No-2

For the Respondent/s : Mr. Ajay Kumar Rastogi- AAG10

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 05-10-2018

Heard learned counsel for petitioner and learned counsel
for the State.

2. The present writ petition has been filed by the petitioner
for registration of his association under Trade Union, Act 1926 (for
short 'the Act').

3. The admitted facts of the case, in brief, are that the
petitioner had applied for registration of *Bihar Shatabdi Azad
Asangathit Karyakhsetra Kaamgaar Evam Shilpkar Union* under the
Act before the respondent no. 2. During consideration of his
application, it transpired that certain documents were not filed with
the application. The petitioner was asked to furnish requisite



documents necessary for registration. The petitioner failed to submit the documents sought for. In absence of necessary documents, vide order dated 28.12.2017, the respondent no. 2 rejected the application submitted for registration of trade union with liberty to the petitioner to re-submit the application after complying with the desired documents.

4. Being aggrieved by the aforesaid order dated 28.12.2017, the petitioner has preferred the present writ petition. The contention of the petitioner is that the order passed by the respondent no. 2 is erroneous in view of the fact that the trade union activities are only a medium to extend the welfare scheme to those who are in dire need of it. The respondents kept the application of the petitioner pending for registration for over two years and rejected the same only on the ground that the desired documents were not furnished. He contended that since most of the persons desirous to be union are illiterate and unskilled. They do not possess requisite documents of employment and, therefore, the respondent no.2 was not correct in rejecting their application on some technical ground.

5. On the contrary, learned counsel appearing for the State submitted that the writ petition is fit to be dismissed for the reason that the order impugned is appealable in nature and the petitioner has not availed of the efficacious statutory remedy and has rushed to this Court in extra-ordinary writ jurisdiction even without complying with



the mandatory requirements for the registration.

6. I have heard learned counsel for the parties and perused the record.

7. A counter-affidavit has been filed on behalf of the respondent 1 to 5 wherein it has been stated that the petitioner had produced name of the seven members of the Union but on scrutiny it was found that only four persons could produce certificate to prove their employment and rest three failed to produce any document to prove their employment. Further, the name of the aforesaid four persons was not exhibited in the list of members produced by the Union. It is also stated that necessary documents were not filed with the application. When the Union was asked to submit the same, it submitted some documents only and failed to submit the documents sought for.

8. The petitioner has not filed any rejoinder to the counter affidavit. Hence, the facts pleaded in the counter-affidavit stands admitted by the petitioner.

9. If the authority prescribed in law verified and considered the documents submitted with the application and found the same lacking for the purpose of registration, the time consumed as a matter of fact was the time granted to the petitioner to fulfill the requirements and furnish the desire documents. On failure to furnish the requisite documents if the authorities have rejected the application of the



petitioner for registration, no illegality can be found with the order.

10. Further more, since section 4 of the Act provides that no trade union of workmen shall be registered unless 10% of workmen engaged or employed in the establishment of industry with which it is connected are the members of such trade union on the date of making of application for registration and the petitioner did not fulfill the mandatory requirements, as provided under Section 4 of the Act, the order impugned can not be assailed. Again, as the order impugned is appealable under Section 11 of the Act, I am not inclined to entertain the instant application under Article 226 of the Constitution of India specially when in the impugned order itself it has been stated that the petitioner may file another application for registration after complying with the mandatory requirements.

11. In that view of the matter, I see no merit in the present writ petition. Accordingly, it is dismissed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	12-10-2018
Transmission Date	

