

\$~21

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

+ W.P.(C) 8152/2016 & CM Nos.33723/2016, 40863/2016, 2443/2017
& 20212/2018

INDIAN NATIONAL TRADE UNION
CONGRESS

..... Petitioner

Through: Mr Neeraj Shekhar and Mr Animesh
Kumar, Advocates.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr Ravi Prakash, CGSC with Mr
Sarfaraz Ahmad, GP for R-1/UOI.
Mr S. B. Tripathi, Advocate for
Intervenor.
GP Capt. Karan Singh Bhati and Mr
Amit Verma.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

01.08.2018

1. The petitioner has filed the preset petition, *inter alia*, praying as
under:-

- “a. issue an appropriate writ, direction or order including a writ, direction or order in the nature of MANDAMUS commanding the respondents to allow present petitioner trade union to participate in the constitution of JBCCI-X.
- b. Issue an appropriate writ, direction or order including a writ, direction or order in the nature of MANDAMUS commanding the respondents herein to forbear from giving effect to the resolution taken during 15th meeting of standardization committee date 31.08.2016.

- c. Issue a Writ, direction or order in the nature of Certiorari or any other appropriate writ, direction or order quashing the resolution dated 31.08.2016 issued by the Respondent No.4.”

2. The petitioner (INTUC) is, essentially, aggrieved by the resolution dated 31.08.2016, passed by respondent No.4 (Coal India Limited), in its 15th meeting of the Standardization Committee. By the impugned resolution, it has been resolved that there would be four members (and four alternate members) of INTUC in the ninth Joint Bipartite Committee for the Coal Industry (JBCCI –IX). INTUC’s grievance is that the two workmen representatives of INTUC mentioned in the said resolution are the members belonging to Sanjiva Reddy’s faction.

3. This Court had considered the controversy involved in the present petition and had passed an interim order dated 16.09.2016 staying the impugned resolution to the extent that it includes the workmen belonging to the Reddy Group. The relevant extract of the said order dated 16.09.2016 indicating the reasons for the said order reads as under:-

“By the present petition, the petitioner impugns the Resolution dated 31.08.2016, passed by respondent No.4, in its 15th meeting of the Standardization Committee.

It is contended that the petitioner is a Central Trade Union. However, on account of certain disputes between the members of the petitioner Union, two different factions are seeking to represent the Union. One faction is known as the Reddy Group and the other is known as the Dubey Group. The present petition has been filed by the Dubey Group.

It is contended that as far back as on 06.04.2011, in a meeting between the representatives of the Ministry of Coal as well as the Respondent No.4, it was noted that there were

disputes between the two factions of the Petitioner/INTUC and it was decided that till the disputes were resolved, the representatives of neither of the factions would be included in the JBCCI (Joint Bipartite Committee for the Coal Industry) – IX. It was further decided that JBCCI – IX would be formed with other operating four Unions and only on resolution of the internal disputes of INTUC, the representatives would be inducted.

Learned senior counsel for the petitioner contends that several efforts were made by the various Ministries including the Ministry of Coal as well as the Ministry of Labour to resolve the disputes, but, the same have not been resolved till date. He submits that till the passing of the impugned order, there was no representative of either of the Unions in the JBCCI.

It is further contended that the Ministry of Coal, by its Memorandum dated 13.05.2016, requested the Ministry of Labour & Employment to guide the respondent No.4 as to which faction of INTUC should be given representation in the wage negotiation. Reference wherein is drawn to the meeting by the Chief Labour Commissioner on 12.04.2016, wherein it is noted that it was felt that INTUC was a Trade Union not only of coal industry but also having its presence in other sectors and it was acknowledged that deciding of the disputes would not come in the domain of the respondent No.4 or the Ministry of Coal but would be in the domain of the Ministry of Labour & Employment. The Ministry of Labour & Employment was requested to advice as to which factions should represent INTUC in the wage negotiations of Coal India Limited.

It is contended that on 30.06.2016, the Ministry of Labour & Employment opined that if there was a dispute between the rival factions of any Trade Union, it could only be decided by a Court of Law. By the said letter, the Ministry of Labour & Employment had directed that till finalization of the disputes, the respondent No.4 may decide about the representation of INTUC in the JBCCI. It is submitted that the said letter refers to some proceedings before the Court but, insofar as the petitioner understands, there are no proceedings pending between the two factions in any Court of Law.

It is further contended that in the 15th meeting of the Standardization Committee, held on 31.08.2016, the impugned Resolution has been passed directing that there shall be four members of the INTUC and four alternate members. In the list of workmen representatives, two members of the Reddy Group have been shown as representing INTUC.

It is submitted that the petitioner was not called to submit any representation or even called for any participation in the said meeting. The Resolution is bereft of any reasoning or rationale as to why one group has been chosen over the other.

It is noted that as far back as in 2011, the two Ministries had noted that there were disputes between the two factions and the efforts of the Ministries had not been able to resolve the disputes between the two factions of the Trade Union. The impugned minutes are bereft of any reason and do not even indicate as to what prevailed in the mind of the Standardization Committee in choosing one faction over the other.

Since there are disputes between the two factions, in my view, it would be necessary to implead the Reddy Group as a party.

On the oral prayer of the petitioner, the Reddy Group is also impleaded as a respondent. Amended memo of parties be filed within three days.

Issue notice. Notice is accepted by the learned counsel appearing for the respondent Nos.1 to 3 as also by the learned counsel for the respondent No.4. Dasti notice shall issue to the newly added respondent – Reddy Group, returnable on 03.11.2016.

Till the next date of hearing, the impugned Resolution, insofar as it relates to the inclusion of the members of the Reddy Group in the JBCCI, is stayed. It is clarified that there is no embargo on the JBCCI in proceeding further with the wage negotiations by excluding the members of the INTUC.

Renotify on 03.11.2016.

Dasti under the signatures of the Court Master.”

4. This Court is now informed that JBCCI-IX is now over. Further, the wage agreement has been entered into and has been notified. It is stated that pursuant to the interim orders passed by this Court on 16.09.2016, none of the representatives of INTUC had participated in the said meetings.

5. It is at once clear that the prayers as sought for in the present petition do not survive and are now infructuous. The petition is, accordingly, disposed of. All pending applications also stand disposed of.

VIBHU BAKHRU, J

AUGUST 01, 2018
MK