

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.271 OF 2020

Nitin Mahendra Kumar Malhotra	...	Petitioner
Versus		
Registrar of Trade Union		
And Others	...	Respondents

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Mr. Satyaprakash Sharma a/w Ms. Shakuntala Sharma i/b Global Juris
for the Petitioner.

Ms. Purnima Kantharia, Government Pleader for Respondent No.1.

Ms. Jayashri Manjrekar i/b Solicis Lex for Respondent Nos.2 and 3.

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**CORAM : S.C. GUPTA AND
M.S. KARNIK, JJ.**

DATE : 23 JUNE 2021

P.C.

1. Heard learned Counsel for the Petitioner and learned Government Pleader for Respondent No.1 and learned Counsel for Respondent Nos.2 and 3. The subject matter of this petition concerns election to the executive committee of Respondent No.2-association. Respondent No.2 is a trade union of Cine and TV Artistes, registered under the provisions of Trade Union Act 1926 ("Act"). Respondent No.3 is the present executive committee. The grievance of the

Petitioner is that Respondent No.1 has unauthorizedly, i.e. without the requisite majority in its general meeting, amended its constitution *inter alia* by extending the tenure of the executive committee from two to three years and also delinked election of the committee from AGM by providing a time gap of 15 days between the date of the AGM and elections to the executive committee. So also, it is submitted that elections have been directed to be held in the Office of Respondent No.2 through EVM as well as by online voting. It is submitted that these provisions, which were not backed by the requisite majority, did not have effect of amending the constitution of Respondent No.2. It is submitted that in any event, the tenure of Respondent No.3, which is the last elected executive committee, has expired on 14/15 April 2020 (elections having been held on 14/15 April 2017), going by even the amended constitution. It is submitted that Respondent No.3 now proposes to hold elections for new executive committee. It is submitted that despite the Petitioner having approached Respondent No.1-Registrar of Trade Union, requesting the latter to hold elections of the new executive committee, the latter has failed to act. In the premises, the Petitioner has approached this court in its writ jurisdiction.

2 So far as elections to the executive committee of Respondent No.2-trade union are concerned, it is a private matter for consideration of members of Respondent No.2. As for Respondent No.1, who represents the State, he is not authorized to intervene in

the event of disputes between members of a union; such disputes must go before the Industrial Court under Section 28-A of the Act. The Registrar has no authority either to hold elections or to direct elections to be held in any particular manner. Learned Counsel for the Petitioner does not dispute this position, but submits that in the light of the controversy raised in the petition, this court should direct Respondent No.1 to intervene and hold elections. We do not see any cause to do so. Amendments were carried out to the constitution of Respondent No.2 in pursuance of a resolution passed as far back as on 1 May 2016; these amendments have not been challenged by raising any dispute before any authority. In the premises, considering that the present elections to the executive committee are being held in accordance with the amended constitution of Respondent No.2, there is no case for Respondent No.1 to interfere in the matter of elections and consequently, no case for this court to direct Respondent No.1 to do so.

3 Accordingly, there is no merit in the petition. The writ petition is dismissed.

(M.S. KARNIK, J.)

(S.C. GUPTE, J.)