

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14079-2021

Date of decision : July 29, 2021

F.C.C. Clutch India Employees Union

.....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Ashwani Talwar, Advocate for the petitioner.

Mr. Ashish Yadav, Addl. AG, Haryana.

Mr. Suraj Bhan Hooda, Advocate for respondents No. 3 and 4.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Prayer in this writ petition is for quashing of order dated 16.07.2021 passed by the Labour Commissioner-cum-Registrar, Trade Unions, Haryana whereby resolution dated 23.04.2021 passed by the Executive Committee of the petitioner Union and consequent orders both dated 24.04.2021 of cancellation of membership of respondent No. 3, (an office bearer of the Union) and respondent No. 4 (a member of the Union), have been set aside.

Learned counsel for the petitioner submits that impugned order dated 16.07.2021 is not sustainable in any manner. First and foremost, the Registrar under the Trade Unions Act is not vested with power to interfere in such a matter. Furthermore, as per Clause 9 of the Constitution of the petitioner Union, remedy of appeal is available to the private respondents and the matter should not have been entertained by the Registrar. Learned counsel submits that despite repeated requests, copies of the complaints before the Labour Commissioner-cum-Registrar were not made available to the petitioner neither was an opportunity of hearing given before passing of impugned order dated 16.07.2021, thus, violating

principles of natural justice. Moreover, the Registrar, it is submitted, could not have delegated its power to the Joint Labour Commissioner.

Notice of motion.

Mr. Ashish Yadav, Addl. AG, Haryana accepts notice on behalf of respondents No. 1, 2 and 5. Mr. Suraj Bhan Hooda, Advocate accepts notice on behalf of respondents No. 3 and 4. Advance copies of the writ petition have been served.

Mr. Yadav, on instructions from Dr. Anuradha Lamba, Joint Labour Commissioner, Gurugram submits that as action of the petitioner was against the Constitution of the petitioner Union, an intervention was justified. Reference is made to Rule 9 of the Constitution of the Union wherein it is provided that an office bearer of the Union can be removed only if 75% of total members of the General Body approve the same and furthermore a member of the Union can be removed only for the violation of rules and regulations of the union or if he works against the interest of the union but no such ground was present for expulsion. Furthermore, the petitioner Union, it is submitted, has only been directed to correct the unconstitutional action within fifteen (15) days, failing which action in accordance with law and under the Trade Unions Act would be initiated against the Union.

Mr. Yadav submits that in fact the matter should be placed before the General Body of the petitioner Union for taking necessary action in this regard.

Mr. Talwar at this stage submits that there is no objection in case the matter is placed before the General Body. Necessary action in terms of Constitution of the petitioner Union would be taken and meeting of the General Body can be held after notice of seven (07) days.

During the course of hearing, Mr. Talwar on instructions from Sh. Pankaj Sharma, Treasurer and authorised signatory of the petitioner submits that without raising any arguments or any of the issues which are being agitated in this writ petition, petitioner in order to resolve the matter at this stage shall withdraw resolution Annexure P11 and the subsequent orders dated 24.04.2021 (Annexures P12 and P13) whereby cancellation of membership of respondents No. 3 and 4 has been ordered. The matter it is submitted, shall be put up before the General Body of the petitioner Union, which is admittedly the supreme Body regarding cancellation of membership of the said respondents and final decision thereon can be taken by the General Body after giving due opportunity of hearing to the said respondents. Meeting of the AGM of General Body shall be called expeditiously in accordance with law as soon as possible, keeping in view the restrictions which may be placed due to pandemic COVID-19.

Keeping in view the specific stand of the petitioner as above, present petition is rendered infructuous. As a natural corollary, order dated 16.07.2021 passed by the learned Labour Commissioner-cum-Registrar, Trade Unions, Haryana is necessarily set at naught. Needless to say, in view of the statement made on behalf of the petitioner, Resolution dated 23.04.2021 (Annexure P11) and subsequent orders dated 24.04.2021 (Annexure P12 and P13) be withdrawn within one week. Issues sought to be raised in this writ petition would remain open, to be decided in appropriate proceedings.

Writ petition is disposed of accordingly.

July 29, 2021
rts

(Lisa Gill)
Judge

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No