

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9328 OF 2022

Pimpri Chinchwad Mahanagar Palika

Karmachari Mahasangh

..Petitioner

V/s.

Manoj Pritamsing Machhare and Ors.

..Respondents

Mr. Pankaj Patel for the Petitioner.

Mr. Nitin Kulkarni for the Respondents.

CORAM : C.V. BHADANG, J.

DATE : 5 AUGUST 2022

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P.C.

. Heard the learned counsel for the parties.

2. This petition is filed purportedly on behalf of *Pimpri Chinchwad Mahanagar Palika Karmachari Mahasangh*, Pune ('Union' for short) challenging the order dated 08.07.2022 passed by the learned Industrial Tribunal, Pune in Application (ICTU) No. 2 of 2021. By the impugned order, the Industrial Tribunal has directed the earlier office bearers of the Petitioner Union (Respondent No.1 before the Industrial Tribunal) to handover the possession of the office of the Union, property including account books etc. to the newly elected body of the Petitioner Union on or before 01.08.2022.

3. The Application (ICTU) No. 2 of 2021 was filed by the Respondents under Section 28(1-A) of the Trade Unions Act, 1926, challenging the holding of the General Body Meeting of the Union on 19.12.2020. The Respondents had made the following substantive prayers in the application.

“a) This Hon'ble Court may be pleased to appoint the Deputy Registrar of Trade Unions to hold elections for the current year by preparing the voters list within time bound period.

b) This Hon'ble Court may be pleased to appoint an Administrator over the affairs of the case if holding of election is not practicable in view of the Covid-19 situation and the Respondents may be directed to hand over all the books of accounts and the other documents related to the Union to the Administrator.

c) This Hon'ble Court may be pleased to restrain the Respondents and other office bearers from acting as office bearers during the pendency of this application.

d) Any other relief in the interest of justice and equity may kindly be granted.

e) Cost of the application may kindly be provided to the applicant.”

4. It so happened that during the pendency of the said application, the election of the Managing Committee of the Union was held on 25.02.2022 and a new Managing Committee has been elected in which Mr. Ambar Kishan Chinchwade (who

has verified the present petition as being the President of the Union) is no longer elected as a President.

5. The learned counsel for the Petitioner contended that all the prayers in ICTU application have become infructuous by passage of time. He then referred to the order of reference which only pertains to the dispute as to the election. Thus, in the submission of the learned counsel, the Industrial Tribunal could not have passed an order directing the earlier body to handover the possession of the office, property, account books of the Union to the newly elected body. In short, according to the learned counsel, the relief granted is dehorse, the relief claimed in ICTU application. Except these, there are no other contentions raised.

6. The learned counsel for the Respondents submitted that Mr. Ambar Kishan Chinchwade has no authority to represent the Union as he is no longer the President. It is pointed out that not even the copy of the resolution of the Union resolving to challenge the impugned order is produced on record. For this reason alone, the petition according to the learned counsel cannot be entertained.

7. It is submitted that the dispute about handing over the custody of the account books, property and office premises is integrally connected to the election of the office bearers.

8. I have considered the submissions made. It is not in dispute that the election to the Managing Committee of the Union was held on 25.05.2022 in which a new Managing Committee was elected and Election Officer of the Corporation has accordingly issued certificates dated 26.02.2022 which are annexed from page 91 to 109 of the affidavit in reply filed by the Respondents. It was not disputed during the course of the arguments that a new body has come into existence in the election held on 25.02.2022.

9. The learned counsel for the Petitioner in all fairness did not dispute that Mr. Ambar Kishan Chinchwade, who has verified the petition on behalf of the Petitioner-Union is no longer the President of the Union. If that be so, the petition has to fail only on the ground that the petition as framed and filed is not maintainable. There is neither any resolution passed or produced by the Union seeking to challenge the impugned order passed by the Industrial Tribunal. It is true that the original Application (ICTU) No. 2 of 2021 was made under Section 28(1-A) of the Trade Union Act, 1926 and the prayers by passage of time may not survive. However, at the same time, indisputably the election the Managing Committee was held on 25.02.2022 in which a new Managing Committee has come into existence and therefore, handing over the charge to the new body is integrally connected

to the issue of election of the Managing Body of the Committee of the Petitioner Union.

10. In that view of the matter, no case for interference is made out in the supervisory jurisdiction of this Court under Article 227 of the Constitution of India. The petition is without any merit and is accordingly dismissed, with no order as to costs.

C.V. BHADANG, J.