



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.01.2022

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.1719 of 2021

S.Arvindhan

... Petitioner

vs.

1. M/s.Bharat Sanchar Nigam Limited - BSNL,
represented by its Chief Liaison Officer/
General Manager,
Corporate Office (SCT Cell),
Room No.221, Eastern Court,
Janpath, New Delhi -1.
2. SC/ST Employees Welfare Association of BSNL,
represented by its General Secretary,
No.D3, Atul Grove Road,
Behind Eastern Court,
New Delhi -1.
3. The Circle Secretary,
SC/ST Employees Welfare Association of BSNL,
Tamil Nadu Circle,
Chennai.
4. The District President,
SC/ST Employees Welfare Association of BSNL,
Vellore SSA, O/o/PGM, BSNL,
Vellore - 632001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records of the 3rd Respondent pertaining to his proceedings in SEWA BSNL/TNC/DISC/2018-82/1 and quash the order dated 15.08.2020 and direct the Respondent to reinduct the Petitioner as a primary member of the 2nd Respondent Society as well as the District Secretary of the 4th Respondent.

For Petitioner	:	Mr.R.Sivakumar
For 1 st Respondent	:	Mr.M.T.Arunan
For 2 nd Respondent	:	No appearance
For Respondents 3 & 4	:	Mr.R.Rajesh Kumar



WEB COPY

5. Learned counsel for the Petitioner contended that, the impugned order is illegal for the reason that, termination of the Petitioner's membership and dismissal from the post of District Secretary, are not based on the proven charges, more so, when there is no finding in the impugned order that, the charges against the Petitioner are proved. He also contended that, the present set of Governing Body of the 3rd Respondent is not competent to pass the impugned order. According to him, 12 out of 21 elected members have demitted the Office and the remaining 9 members cannot themselves constitute the Governing Body, without calling for a regular election.

6. On the other hand, learned counsel appearing for the 1st Respondent, with reference to the counter Affidavit filed by the 1st Respondent submitted that, as per the amended bye-law provisions of SC/ST Employees Welfare Association of BSNL (in short 'SEWA'), recognition of CHQ Governing body was given by BSNL Corporate Office, New Delhi and approval for Office bearers of Circle Governing Body was given by Central Head Quarters (CHQ) at New Delhi, and approval for Office bearers of SSA/District Governing Body by the Circle Governing Body. Learned counsel went on to state that, the impugned order passed by the 3rd Respondent is the internal decision of SEWA, BSNL and there is no role of Circle/SSA Administration on the said impugned order.

7. While so, learned counsel appearing for the 3rd Respondent submitted that, as per the by-laws of SEWA, the 3rd Respondent is entitled to take disciplinary action against erring members by invoking clause 3 of the bye-laws and hence, invoking the said clause, a Show Cause Notice has been issued to the Petitioner and only after conducting enquiry, the 3rd Respondent initiated action against him. According to the learned counsel, the remedy available to the Petitioner is only before the competent Civil Court and not before this Court. He pointed out that, the dispute which has arisen between the Petitioner and the 3rd Respondent is an internal dispute and it cannot be the subject matter under Article 226 of the Constitution of India. Hence, he prayed for dismissal of the Writ Petition.

8. Heard the learned counsel on either side and perused the material documents available on record.

9. Admittedly, the Writ Petitioner was a primary member of the 3rd Respondent Association and the District Secretary of SSA/Vellore. On certain allegations, he was issued a Show Cause Notice by the 3rd Respondent. After conducting enquiry, the 3rd Respondent terminated the



WEB COPY

Petitioner's primary membership from the 3rd Respondent Association and dismissed him from the post of District Secretary of SSA/Vellore. The present issue involving the Petitioner and the 3rd Respondent Association cannot be dealt with by this Court, as a Society, which is not a State would not normally be amenable to the writ jurisdiction under Article 226 of the Constitution of India.

10. In the case of K.Marappan vs. The Deputy Registrar of Co-operative Societies, Namakkal, reported in 2006 (4) CTC 689, a Larger Bench of this Court has clearly held that, where a Society cannot be characterised as a State, the service conditions of its employees governed by its bye-laws cannot be enforced through a Writ Petition.

11. In view of the aforesaid discussion, without expressing any opinion prejudicial to the interest of the Petitioner as well as the 3rd Respondent herein, this Court holds that, this Writ Petition is not maintainable. However, the Petitioner is at liberty to work out his remedy in the manner known to law.

The Writ Petition stands dismissed with the above observation. No costs. Consequently, connected W.M.P.No.1924 of 2021 is closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

(aeb)

To:
The Chief Liaison Officer/General Manager,
M/s.Bharat Sanchar Nigam Limited - BSNL,
Corporate Office (SCT Cell),
Room No.221, Eastern Court,
Janpath, New Delhi -1.

+1 cc to Mr.M.T.Arunan, Advocate Sr.NO.3446

+1 cc to Mr.S.R.Sivakumar, Advocate Sr.NO. 3887

W.P.No.1719 of 2021

PMK(CO)

A.SK(09/03/2022)