

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1522 of 2023

Sumit Kumar Son of Parmanand Prasad Singh Resident of Village- Ragho Majhauri, P.O. and P.S.- Bochchan, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Labour Resources Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary-cum-Chief Executive Officer, Labour Resources Development, Govt. of Bihar, Patna.
3. The Labour Commissioner-Cum-Registrar of Trade Union Labour Resources Department, Bihar, Patna.
4. The Labour Superintendent, Muzaffarpur, District- Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sri Krishna Ranjan, Advocate
For the Respondent/s	:	Mr. Anil Kumar Singh, GP-26
		Mr. Nawal Kishore Singh, AC to GP-26

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 24-03-2023 The petitioner has challenged the order dated 26.09.2022 (Annexure-5), passed vide memo no. 3733 by respondent no.3, the Labour Commissioner-Cum-Registrar of Trade Union Labour Resources Department, Bihar, Patna, whereby the application of the petitioner for registration of trade union has been refused.

The refusal of the Registrar to register a trade union is an order, which is appealable in terms of Section 11 of the Trade Union Act, 1926 (hereinafter referred to as 'the Act').

Section 11 of the Act reads as follows:-



*“11. **Appeal.**- (1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal,--*

(a) where the head office of the Trade Union is situated within the limits of a Presidency-town, to the High Court, or (b) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the [appropriate Government] may appoint in this behalf for that area.

(2) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of an appeal under subsection (1) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an



appeal by any Court appointed under clause (b) of sub-section (1), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose of such appeal, have all the powers of an appellate Court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly.”

Keeping in view of the above, the remedy of directly approaching this Court before availing the remedy of appellate forum is held to be not maintainable.

Granting such liberty to the petitioner, the present writ petition is dismissed as not maintainable.

(Sanjeev Prakash Sharma, J)

Amrendra/-
Item No. 16

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